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POLITICAL SCIENCE QUARTERLY

BRITISH ORGANIZATION FOR REARMAMENT

IT is commonly said that democracies act less quickly than dictatorships and are therefore at a disadvantage in a troubled world. So far as the British Constitution is concerned, it is very doubtful if the statement is correct. In an emergency there is no constitutional structure which works with such speed. It is true that it took three cholera epidemics to produce an effective public health system and twenty years of guerrilla warfare in and out of Parliament to settle the question whether the Fleet Air Arm should or should not be controlled by the Admiralty. Mr. Winston Churchill as First Lord of the Admiralty had to make specious pleas about "landships" and the needs of naval defence in the Near East in order to persuade the War Office to develop tanks for use on the Western Front. Many other examples could be cited; but the explanation is only that civil servants do not always welcome new ideas, that politicians cannot be bothered to settle problems about which experts differ until they become really urgent, and that any civil servant can find hundreds of reasons for rejecting any plan which diminishes his own importance and chances of promotion. Each of these reasons applies with even more force to a dictatorship. Civil servants and politicians are much the same the world over, and their powers of obstruction are necessarily increased where there can be no public criticism, where bureaucratic powers are in conflict between public and party offices, and where lesser stars fight for the privilege of reflecting the light that is radiated by the beneficent sun that shines over all. The predominance of the dictator enables him to settle any question which is really put

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before him; but so does the predominance of the British Cabinet; and, moreover, the British Cabinet knows of the problem and has to settle it once the fierce light of parliamentary publicity plays upon it. The events of 1914 showed that the Cabinet can make a war as easily and as quickly as any dictator; and if that is a test of efficiency the British system gives more lessons in efficiency than it learns. It is true that the conduct of the war can hardly be said to have been efficient; but, after all, the democracies won the war, in spite of the assistance of the most absolute of the pre-war dictatorships, the first to crumple under the strain.

The British Cabinet system is really a very flexible instrument. Given urgency, it can be molded rapidly to meet changing conditions. Its apparent slowness in many directions is due to the fact that no reason for urgency appears, and so long as the Cabinet has not to take a decision quickly it tries to settle by compromise the conflicts that inevitably arise in an administrative structure of such complication as modern government demands. The fact that it has to justify itself in Parliament is no limitation on its speed of operation; it is, rather, a limitation on the adoption of policies that public opinion will not accept. The acceptance of the Hoare-Laval proposals might, in the long run, have been better for the Emperor of Ethiopia and would certainly have caused much less bother to the Foreign Office; but public opinion thought, and still thinks, that no self-respecting democracy could connive at barefaced robbery. It would have cost much less to have begun the rearmament program long before 1935, but a large section of public opinion still believes that the effort to maintain a peaceful world was worth the price that has to be paid. This is not to defend the attitude of Mr. Baldwin and the National Government at the general election of 1935; it is the clear duty of a government that believes in a policy to announce it to the world, to go down before public opinion with honor if it cannot be persuaded, and to leave the responsibility with public opinion. Great Britain did not begin rearming before 1936 because it did not want to rearm and did not think it necessary to rearm. Once government and people accepted

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a common policy the speed of action has been strictly commensurate with the apparent urgency. Moreover, Parliament has been no check upon it; indeed, it has been a spur to greater rapidity. It has compelled ministerial changes in two of the key positions, the offices of the Secretaries of State for War and for Air. It has forced the government to undertake reorganization in the most criticized of the departments, the Air Ministry. There have also been substantial changes in the structure of the War Office and the Admiralty, though here the incentive came from inside.

When policy becomes dominated by rearmament and the possibility of another European war, as was recently the case, the Committee of Imperial Defence becomes a major instrument of government. The specific proposals of the three departments primarily concerned—the Admiralty, the War Office and the Air Ministry—and also the Home Office, which is charged with the function of preparing air raid precautions, must come from the departments after consultation with the Treasury. The general scheme must, however, be a unity in respect of tactics; and a system of priorities must be established in accordance with degrees of urgency. The Cabinet itself cannot deal with the matter *ab initio*. It can take decisions only on carefully prepared proposals which have been worked out in collaboration. The Committee of Imperial Defence is the appropriate body for the purpose, and its organization is so effective that it has not been altered under the stress of the new demands made upon it. The general coördination of government supplies has passed to a numerous progeny which has separated from its parent. For practical purposes the Contracts Coördination Committee and the eleven other committees set up in 1923 [1] are now completely separate. The coördination of peace-time supplies is a problem quite distinct from the preparation for the next war, and the Committee of Imperial Defence has been left free to perform its main task.

[1] See Jennings, Ivor, *Cabinet Government* (New York and Cambridge, England, 1936), pp. 106-112; and among later documents, see Report from the Select Committee on Estimates, 1938 (H. C. 158), pp. 8-14.

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The Committee is not a committee of the Cabinet, though it is often so described. It is, technically, a committee appointed by the Prime Minister to advise him.[2] It does not report to the Cabinet but to the Prime Minister. Its membership is more or less flexible because, though it has a number of permanent members, it is primarily a coördinating committee and members attend only when their problems are under discussion. The Prime Minister attends and presides when issues of real importance are being discussed. It was felt in 1936 that this did not give enough political control. The Prime Minister is, like Pooh-Bah, Lord High Everything Else. He leads the Government, the House of Commons and the Conservative Party, and the time available for any particular function is strictly limited. It has been contended for years that the simplest way to coördinate the three defence departments is to establish a common Ministry of Defence. The question need not here be argued; but the probable result would be to enhance the position of the military, naval and air officers who undertake much of the administrative work. M. Clemenceau said that war was too serious a matter to be left to generals and admirals, and recent British experience has again shown—it is a lesson learned before and after every war—that neither war nor preparation for war can be left in the hands of the technical experts; all the changes in the Air Ministry, for instance, have been in the direction of strengthening the civil element in administration. In any case, the Cabinet, not for the first time, decided against the suggestion; instead a Minister for the Coördination of Defence was appointed.

This Minister has been a minister without an office. He presided over the Committee of Imperial Defence in the absence of the Prime Minister. Subject to the Prime Minister, he accepted responsibility for the quite substantial organization of the Committee of Imperial Defence. In addition, he may preside, in the absence of the Prime Minister, over the Chiefs of the Staffs Committee. This body is concerned with tactics generally. As between 1911 and 1914, the position in Europe

[2] Jennings, *op. cit.*, chapter x.

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has become gradually stabilized so that it is possible to formulate plans to be brought into effect at once, if war should break out. It may not be possible to forecast accurately the line which the enemy will follow, as General Wilson was able to do in 1911. There must, therefore, be more flexibility in the "war book" than there was in 1914—when with only slight changes the British Expeditionary Force landed at the port where it was expected to land and was transported by the means arranged long beforehand to the exact spot where it was expected to meet the invading German army. (The subsequent events were not forecast, but at least it delayed the German advance long enough to make the Battle of the Marne possible.) Conditions, too, have entirely changed; but it cannot be difficult to make a guess at who will be the enemy and what he will do so far as Great Britain is concerned. Indeed, those engaged in the air defence of London know what he will do and have received precise instructions accordingly. These are tactical questions, which in themselves require no immediate political decisions. They require only a coördination of the staff plans of the three departments so that the orders issued to subordinate officers will fit into a general scheme of defence. Nevertheless, the formulation of the plans requires organization and expenditure which must depend on immediate Cabinet decisions. Though the recommendations of the Chiefs of the Staffs Committee are considered by the Committee of Imperial Defence and are then reported to the Cabinet, it is desirable that there should be no delay through differences of opinion among the Chiefs of the Staffs. If the three Chiefs disagree there will be no report to the Committee of Imperial Defence, no decision by the Cabinet, and, sooner or later, no London (unless, of course, higher authorities take a hand by removing the existing dangers to European peace). Accordingly, it is necessary that some minister should be acquainted with the subjects under discussion by the Chiefs of the Staffs and should be able to step in when their relations become more than usually strained. The Minister for the Coördination of Defence is not expected to take part in the formulation of plans, but he is expected to see that plans are formulated.

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Defence is, however, dependent on foreign policy. That policy necessarily varies in its application from day to day, but the main principles seem now to be established. The present writer is not an authority on the foreign policy of the present Government; but so far as preparation for a possible war is concerned the policy seems clear enough. In case efforts to prevent an outbreak in Central Europe prove unsuccessful, the primary aim seems to be to keep the Mediterranean free—free, that is, for British shipping. For this purpose it has to be assumed that, if relations with Italy can be kept as friendly as the circumstances permit, it may be possible by the means adopted in 1914 and 1915 to prevent the Italian fleet from being, as the phrase is, "unfriendly". At the extremities of the Mediterranean, relations with Egypt must be kept on a friendly footing so that there may be no difficulty with the Suez Canal, and Turkey, Greece and Portugal must be kept as far as possible sympathetic (hence the efforts of propaganda being made by the British Council in these countries). Spain is a doubtful element, but it goes either with France or with Italy or with both—or does not go at all, which is just as good from a defence point of view.

If this is a correct assessment, the general problems of foreign policy in relation to defence are settled, and the Foreign Office can be left to put the policy into operation. Consequently, the questions of Cabinet order which arise on defence must necessarily be plain questions of expenditure and policy in respect of rearmament. The situation was quite different so long as the Italo-Ethiopian war continued, and the Cabinet committee set up to deal with the matter must have occupied a key position. Presumably this committee, the Defence Policy and Requirements Committee, is still in existence; it would clearly become important again if the situation in the Mediterranean altered. When the Minister for the Coördination of Defence was appointed in 1936, one of his functions was to act as deputy-chairman of this committee. He thus occupied a more important position than was commonly assumed in Parliament. It is true that he was no more than a deputy; but a deputy to a person who has the authority of a British Prime Minister, and, moreover, to a person who

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has so many things to do, is a very important deputy. Under Mr. Baldwin the post was probably more important than it is now; for Mr. Baldwin learned that delegation is the art of government, while Mr. Chamberlain seems to think that the mantle of Peel is large enough to cover the whole province of knowledge. Nevertheless, the post is still important, since it involves constant attendance at two major committees, the Committee of Imperial Defence and the Defence Policy and Requirements Committee, and some kind of responsibility for them to the Prime Minister and to the Cabinet.

There was, it has been mentioned, no "office" for the Minister. Nevertheless, the personal prestige and personality of Sir Maurice Hankey gave him the position of Permanent Secretary for Defence. Sir Maurice Hankey, until his retirement on August 1 last, held three positions, as Clerk to the Privy Council, Secretary to the Cabinet, and Secretary to the Committee of Imperial Defence. The office of Clerk to the Privy Council is a historic survival, and history tells us that the clerks have had ample time for the compilation of diaries. Its practical importance is small and, indeed, for our present purposes, nonexistent. Its close connection with the King requires it to be filled by a civil servant of high standing, and there are some technical office matters which need control. Accordingly, it must be held by a civil servant equal in status to the Permanent Under-Secretaries of State, though its work is of little practical importance. It was therefore convenient to associate it with the Cabinet Office. It is unnecessary to describe the functions of the Cabinet Office as a whole.[8] They are essentially secretarial and do not involve advice except on matters of Cabinet procedure. Speaking generally, the most important result of the establishment of the Office has been the close connection with the Treasury which has enabled that department, under Cabinet authority, to control the circulation of proposals involving expenditure. The personal authority of Sir Maurice Hankey was much higher than the nature of his office in itself implies. Though most Cabinet committees have the Deputy Secretary as their secretary, he himself generally took those committees which dealt with matters of

[8] Jennings, *op. cit.*, pp. 186-217.

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defence. Though it was never the custom to consult him at Cabinet meetings, except on questions of procedure, the less formal atmosphere of the committees, at which civil servants are frequently present, enabled the ministers present to ask his advice. Since he was also Secretary to the Committee of Imperial Defence and was thus familiar with the long process of examination of the problems of defence, his advice was particularly useful. Moreover, since he was responsible to the Prime Minister direct, the Prime Minister had no difficulty in taking his opinion directly, an important point because even the most meddlesome Prime Minister, like Mr. Lloyd George or Mr. Chamberlain, finds difficulty in by-passing ministers to talk to their advisers. We shall not know for another generation what part Sir Maurice Hankey has played in post-war developments, but it is generally understood to be substantial.

Sir Maurice was due to retire in 1937 under the usual civil service rule for retirement. The business of rearmament being still in the process of initial development, he was continued in office for another year. The falling in of one of the few sinecures remaining in the hands of the government, a directorship of the Suez Canal Company, gave him an opportunity to retire with profit as well as honor. Naturally, his retirement was associated in suspicious minds with other changes among ministers and civil servants since Mr. Chamberlain came to office; but Cabinet secrets really are secrets, and if the official reason for retirement was not the correct one the real reason is still wrapped in official discretion. It is much more likely that the official reason is correct.

His retirement necessarily left a considerable problem of administrative organization. It is extraordinarily rare to find an officer of marines who is also an able administrator and a trustworthy adviser. The Secretary of the Committee of Imperial Defence should be a staff officer of some experience. At the same time, all the services of the Cabinet Office and the Secretariat to the Committee of Imperial Defence are in common. The Cabinet Office grew out of the Secretariat to the Committee, and under Sir Maurice Hankey only the Deputy Secretary and a Principal seconded from the Treasury were separate from the Committee of Imperial Defence. To

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effect a complete separation of the two offices would thus add to the cost of administration and would involve the creation of two small offices. The Privy Council Office is quite distinct, but there would be waste both of money and of a senior official's time to appoint an officer of the rank of a Permanent Under-Secretary to that Office. Finally, there was need to provide the Prime Minister and the Minister for the Coördination of Defence with an adviser of high competence so long as defence plays such a prominent part in British policy.

The solution was the creation of a unified office under the title "Offices of the Cabinet, Committee of Imperial Defence, Economic Advisory Council and Minister for the Coördination of Defence". The reference to the Economic Advisory Council compels us to mention it, though its importance is small. Established by Mr. Ramsay MacDonald as an "economic general staff", it soon lost the interest of its founder, and never received any enthusiasm from Mr. Baldwin. If it ever gave any advice on economic matters it probably would not be found in the gospel according to Joseph Chamberlain, so that not much enthusiasm may be expected from Joseph Chamberlain's son. It is, technically, a committee of the same kind as the Committee of Imperial Defence; that is, it is appointed by and reports to the Prime Minister.[4] In fact, however, it rarely meets and therefore rarely reports. Its committees sometimes report on special technical matters and, if the Prime Minister remembers, these reports are circulated to the Cabinet ministers, by whom they are placed in the waste-paper basket. Its organization has been the responsibility of the Cabinet Office, and it is therefore included in the long title of the new office.

The permanent head of the new office is styled "Permanent Secretary and Secretary of the Cabinet". He is assisted by two other officers, styled respectively "Clerk of the Privy Council and Deputy Secretary of the Cabinet" and "Secretary of the Committee of Imperial Defence". Thus, Sir Maurice Hankey's control over the Cabinet Office and the Committee of Imperial Defence is maintained, though his successor ceases to be Secretary to the Committee of Imperial Defence. The technical advice to that Committee will be given by the Secretary,

[4] Jennings, *op. cit.*, pp. 247-249.

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Colonel Ismay, who was Deputy Secretary under Sir Maurice Hankey. On the other hand, administrative control is vested in the Permanent Secretary. The office of Clerk of the Privy Council comes down a peg in the official scale, and Sir Rupert Howorth, who has been Deputy Secretary of the Cabinet under Sir Maurice Hankey, becomes Clerk of the Privy Council as well. The new Permanent Secretary is Mr. E. E. Bridges, who has been in control of the section of the Treasury responsible for defence matters and a member of the Air Ministry Supply Committee set up to deal with the problem of Air Ministry contracts for rearmament purposes.

The change is not great. Obviously its whole purpose is to stabilize the position so far as the retirement of Sir Maurice Hankey made it possible for this to be done. In particular, the Prime Minister maintains his control over the Committee of Imperial Defence as well as over the Cabinet Office. That control would, of course, disappear at once if a particularly strong Minister for the Coördination of Defence were appointed. If, for instance, Lord Baldwin were still Prime Minister and Mr. Churchill were Minister for the Coördination of Defence, it seems reasonably clear that the coördination of defence would cease for effective purposes to be the concern of the Prime Minister. On the other hand, if the two offices of Secretary of the Cabinet and Secretary to the Committee of Imperial Defence were separated, and the Minister for the Coördination of Defence were weak, the Committee of Imperial Defence would rapidly fall into the hands of one of the Defence Departments. Under present conditions, the control remains in the hands of the Prime Minister so long as his health enables him to bear the many burdens that he is trying to carry. If war breaks out, the point will become of considerable importance. The organization of the Committee will become the organization of the War Cabinet, and the Minister in effective charge of the Committee will be the real Prime Minister. If, on the other hand, European conditions settle down to peace once more, the Committee of Imperial Defence will drop back into its former comparative insignificance, and the Secretariat will be nothing more than a secretariat.

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THE FAIR LABOR STANDARDS ACT OF 1938 I

The Background and Legislative History of the Act

IT has been a long-established belief on the part of the Roosevelt administration that minimum scales of wages and maximum hours should be established by the national government. The fixation of wages has been justified by the administration and its supporters on three grounds, namely, that: (1) it was necessary to protect workers from the pressure of competition, or from the combination in wage matters of monopoly; (2) it was desirable to check downward spirals of wage-cutting with an attendant demoralization of market prices and a proportionate increase in the relative weight of fixed charges; (3) an increase in wage rates would, it was alleged, increase the total quantity of effective purchasing power, and hence increase the demand for mass production goods and services. The argument for shorter hours was partly justified on grounds of its effects on citizenship and on the added satisfactions which the workers would obtain, but the primary purpose was to make it possible for more workers to be added to the pay roll. It was thus designed in part as a compulsory "share-the-work" program. It is not the purpose of this article to inquire whether or not these contentions are well founded,[1] but rather to analyze the Fair Labor Standards Act of 1938, and administrative developments under it, as well as to trace its legislative history prior to passage. Before we turn to the history of the act, however, it is appropriate to place it in its proper setting.

It is well known that the act creating the N. R. A. was originally favored by the President because of its provisions

[1] One of the authors (Douglas) has discussed these issues in two articles, i. e., "The Economic Theory of Wage Regulation", *The University of Chicago Law Review*, February 1938, pp. 184-218; and in a forthcoming article to appear in the *International Labour Review*.

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governing wages and hours rather than for the trade practice provisions. The President also encouraged the passage by state legislatures of minimum wage laws for women.[2] After the N. R. A. was declared unconstitutional in 1935,[3] and also after the Guffey coal bill, which gave governmental support to wage-fixing as well as to price-fixing in that industry, was likewise declared unconstitutional,[4] the prospects for wage regulation on a national scale were not bright. Then followed the 5 to 4 decision in the Tipaldo case declaring fixation of wages by the states to be unconstitutional, even when partly based upon the criterion of the "fair value of services rendered."[5]

The administration took up the challenge, and the Democratic platform of 1936 declared minimum wages and maximum hours to be matters "which cannot be adequately handled exclusively by forty-eight different state legislatures." A promise was made to seek a solution within the Constitution, but if this were not possible, to work for a constitutional amendment which would make effective governmental action possible. The Roosevelt administration, therefore, pledged itself to action, and after its subsequent victory in the 1936 elections waited for an opportune moment to move.

This moment came when, in the spring of 1937, it became evident that the attitude of certain Supreme Court justices had changed. Whether or not they were influenced by the election results of the preceding autumn, or by the fear that if they continued to declare "social" legislation to be unconstitutional, the President's proposals for changes in the Supreme Court would be enacted, is not a matter into which it is necessary to probe at this time. Whatever the reasons, the results were evident. In *West Coast Hotel v. Parrish,* the Court approved a long-established act of the state of Washington, under which minimum wages for women had been paid.[6] Then, on April

[2] As governor of New York, the President had been a consistent advocate of protective legislation for women and children.

[3] *Schechter Poultry Corp. v. United States,* 295 U. S. 495.

[4] *Carter v. Carter Coal Co.,* 298 U. S. 238.

[5] *Morehead v. New York ex re Tipaldo,* 298 U. S. 587.

[6] *West Coast Hotel v. Parrish,* 300 U. S. 379.

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12, in the five Labor Board cases, the Labor Relations Act was held to be constitutional in so far as it used the powers of the federal government over interstate commerce to attempt to reduce labor disputes at points which were in the "flow" of interstate commerce.[7] Since the manufacture of steel, auto trailers, and men's clothing were adjudged to be in the "flow", it was obvious that this decision went far to give regulatory powers to the government over at least certain forms of labor conditions, and indicated that the contrary precedents of the first child labor case[8] (*Hammer v. Dagenhart*), and the Guffey coal case, were either directly overruled or might be in future cases.

1. *The Original Draft*

Encouraged by these evidences of a change in attitude on the part of the Supreme Court, the administration drafted a bill which Senator Hugo Black of Alabama and Representative William Connery of Massachusetts introduced on May 24, 1937.[9] It was accompanied simultaneously by a message to Congress from the President which reiterated the fact that "one-third of our population . . . is ill-nourished, ill-clad, and ill-housed," and which called for national action to fix minimum wages and a maximum working week for industrial and agricultural workers, as well as to prohibit child labor. The President assailed the majority opinion of the Supreme Court in the first child labor case, and declared that the minority opinion of Mr. Justice Holmes in that case "spoke for a majority of the American people."

[7] *Associated Press v. National Labor Relations Board; National Labor Relations Board v. Jones and Laughlin; National Labor Relations Board v. Freuhauf Trailer Co.; National Labor Relations Board v. Friedman-Marks Clothing Co.; Washington, Virginia and Maryland Coach Co. v. National Labor Relations Board*, 301 U. S. 1-148. The favorable decisions in the so-called Social Security cases also encouraged the belief that the position of the court on these constitutional issues had changed.

[8] *Hammer v. Dagenhart*, 247 U. S. 251.

[9] S. 2475 and H. R. 7200, 75th Congress, 1st session. While Messrs. Black and Connery were the official sponsors of the bill, there is evidence that Senator Pope of Idaho and Assistant Attorney General Jackson played a more active rôle in the drafting of the legislation.

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In its substantive features, the Black-Connery bill provided for national regulation, under the commerce powers of the federal government, of minimum wages and maximum hours; the prohibition of child labor; and the elimination of certain labor practices such as the hiring of labor spies and professional strike-breakers. Since the latter provisions were early eliminated from the bill, we shall not include them in our discussion.

As regards wages and hours, the bill provided for a statutory minimum hourly rate and maximum standard work-week, but gave to a Labor Standards Board of five the power to fix, after due investigation and within certain limits, still higher wages and shorter hours. The precise statutory minima and maxima to be fixed by Congress were left blank in the draft; but it was commonly understood and assumed by witnesses at the hearings that the amounts so contemplated were a minimum hourly rate of forty cents and a maximum standard work-week of forty hours. But while these furnished the bedrock standards, the Labor Standards Board had the power, under section 5, to go higher. When it became convinced that due to "the inadequacy or ineffectiveness of facilities for collective bargaining, wages lower than a minimum fair wage are paid to any occupation in which such employees are engaged in interstate commerce or . . . in the production of goods which are sold or shipped to a substantial extent in interstate commerce," the Board was to conduct an investigation of the wages and of the value of the services rendered, and might fix a "fair" wage and a "reasonable" work-week. In fixing such higher standards, the Board was not to "unreasonably curtail opportunities for employment" by its wage rulings, and was to consider: (1) "the cost of living and all other relevant circumstances affecting the value of the service . . . rendered"; (2) the same data as a court in fixing the reasonable value of services rendered in the absence of a contract; (3) "the wages established for work of a like or comparable character by collective agreements negotiated between employers and employees by representatives of their own choosing";[10] and (4)

[10] This was apparently to be the predominant consideration in fixing wages in those industries where unionization had gained a partial foothold.

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"the wages paid for like or comparable work by employers who voluntarily maintain fair wage standards." [11]

It will be noticed from the above statement that the Board was presumably to intervene only in those cases where collective bargaining was "inadequate" or "ineffective". This was intended to reassure the unions that the government would not take over the regulation of wages in those industries and crafts where they were governed by collective bargaining. There was some feeling, however, on the part of union representatives that these safeguards for their functioning were inadequate, even though the union standards were to be generalized wherever possible. It was understood, of course, that if a wage established by collective bargaining were less than the statutory minimum, it would have to give way and be replaced by the legal minimum.

The Board could not, however, fix a wage which would give the workers "an annual wage income in excess of $1200 or an hourly wage in excess of 80 cents except for overtime, night or extra shift work." Since the 80-cent maximum provision was apparently designed for seasonal trades and industries where an annual basis could not be computed,[12] the $1200 upper limit was intended to govern the regularly operating industries. This provision was couched in terms of actual earnings, but was probably designed to cover the standard full-time wage.[13] In terms of a working year of 50 weeks,[14] this

[11] In fixing maximum hours, the Board was to take into consideration the third and fourth criteria stated above, and also: (1) "the relation of the work to the physical and economic health, efficiency and well-being of the employees and all other relevant circumstances affecting the reasonableness of the period of working-time for the work or class of work performed", and (2) "the number of persons available for employment in the occupation." The generalization of union hours was apparently to be the guiding criterion wherever possible.

[12] See the testimony of Assistant Attorney General Robert H. Jackson, in the Hearings on the bill. *Joint Hearings on Fair Labor Standards Act of 1937*, p. 47.

[13] For the difference between actual weekly or yearly earnings and "full-time" weekly earnings, see Douglas, *Real Wages in the United States*, chapter 1.

[14] Allowing for Sundays and holidays, there are approximately 306 working days in the year, or 51 weeks of 6 days.

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would have meant $24 a week. If the working week in a given occupation were set at 40 hours, this would have permitted a maximum hourly rate of 60 cents; while if 30 hours were fixed as the maximum, the highest hourly rate would have been 80 cents. Since $1200 was the maximum to which minimum full-time wages might rise and since no hourly rate could be fixed above 80 cents an hour, this implied in effect that the Board, under certain circumstances, could have fixed the maximum basic work-week at as low a figure as (but not below) 30 hours. With intermediate variations in the hours, there would have been proportionate variations in the opposite direction in the hourly rate.

Hours in excess of the standard number per week could (unless prohibited by the Board) be worked upon payment of time and a half rates. But the Board was also given the power to limit or prevent such actual overtime in given occupations and to fix the wage rates which should be paid for it. In cases of "seasonal or peak activity", it could also make special arrangements permitting a lengthening of the basic week. It was also empowered, although not required, to exempt small employers from the wage and hour standards if this would not imperil the purposes of the act. The exact definition of a small employer, like that of the statutory minimum wage and the maximum hours, was left blank and was to be filled in by Congress. The Board could also grant exemptions to learners, apprentices, sub-standard workers, etc., and was also given powers to provide "suitable treatment of other cases" where this was justified by the character of the employment.

Particularly important was the power of the Board to define the occupations covered by its rulings and to mark out their "territorial class, craft and industrial" scope.[15] It could also classify employees and employers "according to localities, the population of the communities in which such employment occurs, the number of employees, the nature and volume of the goods produced and such other differentiating circumstances" as the Board might find necessary and appropriate.[16]

[15] Section 12 (4). [16] Section 12 (5).

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Assistant Attorney General Robert H. Jackson, in his testimony on the bill, stated, however, that these terms would not permit regional differentials as such.[17]

It is thus apparent that the proposed measure vested very broad powers in the Board—perhaps broader (except in the case of the N. R. A.) than those ever granted in peace time to a governmental authority other than the chief executive. This Board was to be composed of five members holding office for staggered terms of five years. In appointing them, the President was to take "industrial and geographic" considerations into account. In order to assist it in setting fair wages and hours standards for a given occupation, the Board was authorized, but not required, to set up advisory committees composed of representatives of employers and employees in that occupation, and of not more than three representatives of the general public. The recommendations of such a committee were to be in no way binding upon the Board, which might accept or reject them in whole or in part or re-submit the matter to the same or another committee.

Thus far, we have spoken only of the wage and hour provisions of the bill. As we have indicated, however, it also outlawed child labor.[18] Thus, labor of children under the age of sixteen in any occupation was prohibited; while the chief of the Children's Bureau was also given the power to bar children under eighteen years in any occupation adjudged "particularly hazardous" or "detrimental to their health or well-being."

Various judicial interpretations of the commerce power of the federal government were invoked by the bill and were designed to supplement each other. (1) The right of access to interstate commerce was to be denied to commodities produced under "unfair" labor conditions.[19] This power was based upon the minority opinion in the Dagenhart case.

[17] *Hearings*, p. 34.

[18] Section 2 (a) 13.

[19] Section 7(A). In addition, by section 7(C), if goods were intended to be shipped in interstate commerce, then the unfair labor conditions could not exist. This was designed to close the possible loophole whereby an employer found guilty of such unfair conditions might refuse to submit until after the

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(2) If, in the judgment of the Board, a sub-standard labor condition led or tended to lead to labor disputes, and hence burdened the "flow" of interstate commerce, or if it caused "undue" price fluctuations, the government was given the power of regulation. These powers were based on the Labor Board decisions and also the Stockyards [20] and Grain-Exchange cases.[21]

(3) Firms producing for an intrastate market would come under the provisions of the act if the "unfair" conditions of work in these concerns gave the owners a competitive advantage over those outside the state, who were or had been shipping goods into the state or states in question. This followed the precedent established by the court in the Shreveport case.[22] Reciprocally, intrastate commerce was to be protected from competition with goods in interstate commerce.

(4) Finally, a further constitutional defense which was apparently designed primarily (although not exclusively) for goods produced by child labor was that of denying entrance into a given state of goods produced under conditions inferior to those legally required within its own borders by the state in question.[23] This was based on the federal laws regulating the interstate shipment of convict-made goods which had been upheld by the Supreme Court on two occasions;[24] and it was to be accompanied by labeling requirements which were to indicate the labor conditions under which such goods were made. As we shall see, strenuous objections were raised against this method by those interested in effective child labor regulation.

goods had been shipped. This further power was based upon the constitutional precedent of *Coronado Coal Co. v. United Mine Workers*, 268 U. S. 295.

[20] *Stafford v. Wallace*, 258 U. S. 495.

[21] *Chicago Board of Trade v. Olsen*, 262 U. S. 1.

[22] *Houston E. & W. T. R. Co. v. United States*, 234 U. S. 342. See also *Railroad Commission v. Chicago B. and G. Co.*, 257 U. S. 563.

[23] Section 7(G).

[24] See *Whitfield v. Ohio*, 297 U. S. 431; and *Kentucky Whip and Collar Co. v. Illinois Central R. R.*, 299 U. S. 334.

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In an able statement submitted by Mr. Jackson,[25] the projected measure was distinguished from the N. R. A. on two grounds which he declared should prevent the Schechter decision from governing the application of the act. (1) The wages and hours bill laid down definite standards for the Board to follow in fixing minimum wages and maximum hours, whereas under the N. R. A. no such guiding principles were furnished by Congress. The bill was not, therefore, an improper delegation of legislative authority, which was perhaps the chief ground on which the N. R. A. had been invalidated. (2) The act did not cover occupations in which the "flow" of interstate commerce had come to a final rest, as had been the case in that branch of the poultry industry immediately affected by the Schechter decision.

A word should be added about the projected coverage of the original bill. Executive, administrative, supervisory and professional work were specifically excluded, as was agricultural employment so far as wages and hours were concerned;[26] and the Board was given the power to define these terms. Child labor was, however, apparently prohibited in agriculture as elsewhere. The act was also presumed to exclude the vast proportion of retailing as occurring in intrastate commerce, although no specific statement to this effect was given in the text.[27] The major groups of industries within the scope of the wages and hours sections would, therefore, have been (1) manufacturing, (2) mining, (3) transportation, and (4) public utilities. Mr. Leon Henderson, in testifying, stated that these included a total of approximately 13.3 million employees, subject to a reduction for casual laborers, and for those in small-scale and purely local industry.[28]

[25] See *Hearings*, pp. 1-20, 47-65.

[26] Section 2 (a) (7).

[27] See statements by Messrs. Jackson and Leon Henderson, *Hearings*, pp. 35-37, and 158-159.

[28] During the hearings, Mr. Henderson submitted some wage data collected under the N.R.A. showing the percentages of the samples collected for various industries who received less than 40 cents an hour (*Hearings*, pp. 165-66). The more important industries with the largest proportions under this sum were as follows:

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2. *The Hearings on the Bill*

Hearings on the bill were begun on June 2, before the combined Senate and House Committees on Labor, and were concluded within three weeks.[29] They disclosed something of the cross-currents of opinion and of the influences which were at work. President William Green of the A. F. of L. testified that by vote of the executive council that organization supported the bill, and in reply to a question he directly approved of the board of five to administer the act.[30] Mr. Green also stated that the A. F. of L. wanted the maximum work-week to be designated by Congress to be 40 hours, with the Board empowered to vary it downward to 30 hours. So far as wages were concerned, the A. F. of L. wanted 40 cents an hour to be fixed by the act as the minimum prescribed rate; but that beyond this limit, the Board should not fix wage rates directly but leave the field open for collective bargaining. He proposed that hourly rates and maximum hours, which were arrived at by genuine collective bargaining for a substantial portion of an occupation, should in general be accepted by the Board as "fair" and should be generalized by applying them to all employers within the given occupation.[31] This was designed primarily for wages over 40 cents an hour, as

Industry	*Time of Study*	*Percentage Receiving Less Than 40 Cents an Hour*
Boot and Shoe (men)	March, 1934	27.0
Boot and Shoe (women)	March, 1934	66.3
Rayon (women)	November, 1933	84.1
Carpets and Rugs	March–Sept., 1933	50.4
Cotton Garments		
South	October, 1934	84.5
North	October, 1934	95.2
Candy Manufacturing (men)	June, 1933	52.8
Candy Manufacturing (women)	June, 1933	96.7
Cigarette Factories	May, 1934	98.4
Smoking Tobacco	June, 1933	81.8
Biscuits and Crackers		
North	June, 1933	44.9
South	June, 1933	81.4

[29] See *Joint Hearings on Fair Labor Standards Act of 1937*, 75th Congress, 1st session, Parts 1, 2 and 3. 1122 pp.

[30] *Ibid.*, p. 236.

[31] This was the practice in Germany during the later years of the Weimar Republic.

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well as for working weeks of less than 40 hours, but as worded the proposal would apparently have applied also to hourly rates of less than 40 cents.[32]

Interestingly enough, Mr. John L. Lewis, the chairman of the C. I. O., took the same position as Mr. Green in wanting to have the power of the Board to raise wages above 40 cents an hour eliminated.[33] Sidney Hillman, president of the Amalgamated Clothing Workers, an important C. I. O. union, who was in charge of the organization drive in the textile industry, testified,[34] however, that he wanted this power of the Board retained, since he believed that legislation should not stop at an $800 full-time yearly wage (40 cents x 40 hours x 50 weeks). He, moreover, declared that such higher rates would aid rather than hinder collective bargaining by protecting the higher wage firms from undue wage-cutting by competitors. Both Mr. Lewis and Mr. Hillman were opposed to any regional differentials.

So far as the employers were concerned, the northern textile industry was definitely in favor of the bill, and opposed to the granting of any regional differentials.[35] It welcomed a national scale as a means of protecting themselves against southern competition with lower wages. This was succinctly stated by Senator Walsh of Massachusetts:

> Industries in New England that now operate on a forty hour week or slightly in excess of forty hours and which pay reasonable minimum wages will not continue to be subject to competition in the trade markets with goods produced by industries that can undersell New England producers due to the fact that they are working their employees longer hours and paying lower wages.[36]

The National Association of Manufacturers, with its affiliated organizations, opposed the measure,[37] and most southern

[32] See *Hearings*, pp. 226-227.

[33] *Ibid.*, pp. 271-309.

[34] *Ibid.*, pp. 945 *et seq.*

[35] Thus, see the testimony of C. T. Murchison, president, Cotton Textile Institute, *Hearings*, p. 813.

[36] *Boston Traveller*, August 3, 1937.

[37] See the testimony of Messrs. Emery, Sargent and Dresser of this association. *Hearings*, pp. 623-685.

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manufacturers either opposed it outright or demanded regional differentials, stating that if they were forced to pay the same wage as the rest of the country many of their industries would be forced out of operation.[38] The chief arguments advanced in favor of a lower wage scale for the South as compared with the North were: (1) living costs were alleged to be lower; (2) southern labor, untrained to manufacturing, was stated to be less efficient than northern; (3) the South had already much higher freight rates than the territory north of the Ohio and east of the Mississippi. From testimony given by J. H. Allredge, rate expert of the T. V. A., this last claim seems to be undeniably true.[39] Thus, on 100 pounds of freight moving equal distances, the average comparative rates were stated to be:[40]

Territory	*Relative Rate*
Eastern or official	100
Southern	139
Western Trunk Line	147
Southwestern	175
Mountain Pacific	171

While precise comparisons are difficult because of relative volumes of traffic, mountain gradients, etc., actual discrimination against the South was indicated by some sample illustrations which showed rates to be appreciably higher from a given southern city to a city in official or eastern territory than for the same article shipped from the latter to the former.

Finally, Mrs. LaRue Brown[41] and Courtenay Dinwiddie,[42] representing organizations interested in effective child labor legislation, while naturally favoring the objects of the act, strongly protested against applying the convict-goods precedent of enforcement, which had been advocated by the National Association of Manufacturers and the American Bar Association. They pointed out that such a plan, to be effective, called for the enactment by every state of "new and approxi-

[38] Testimony of John E. Edgerton, president, Southern States Industrial Council, pp. 760-807, of *Hearings*.

[39] *Ibid.*, pp. 1023-1058.

[40] *Ibid.*, p. 1026.

[41] *Ibid.*, pp. 389-395.

[42] *Ibid.*, pp. 396-403.

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mately identical legislation", and stressed the virtual impossibility of obtaining this. As Mr. Dinwiddie stated: "With all 48 states having different laws and with wide variations as to details such as ages, hours, night work and types of machinery on which children may or may not be employed, the vast complexity of conditions with which hundreds of thousands of manufacturers of this country would be supposed to be familiar, reaches a degree of absurdity which would, I fear, make a joke of the law." [43] In addition, Mrs. Brown made the important point that the proposed method would in effect set up further tariff barriers between the states—a tendency which it may be remarked has already gone much further than is commonly realized.

3. *The Bill before the Senate*

On July 6, the Senate Committee on Education and Labor reported out an amended bill.[44] The most important change from the original draft was to provide that the Board could not fix wages of above 40 cents an hour, or a standard working week of less than 40 hours. The $1200 a year and 80 cents an hour clauses were, therefore, eliminated. The Board could, however, set lower wages than 40 cents and longer hours than 40; and there was no definite "floor" or "ceiling" specified in the bill. The possibility of regional differentials was recognized by the clause that the Board should "avoid the adoption of any classification which effects an unreasonable discrimination against any person or locality." [45] The appointment of advisory committees was made mandatory rather than optional, and within the covered industries, the plan to except employers of less than a given number of workers was dropped. The act was also extended to the territories as well as to the states.

The agricultural exemptions were at once broadened and made more specific by providing that they should include

[43] *Ibid.*, p. 402.

[44] See Report No. 884, Calendar 905, 75th Congress, 1st session, and the accompanying draft.

[45] Section 9 (4).

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dairying, horticulture, forestry, truck gardening, the raising of livestock, bees and poultry and any "practice incident to farming."[46] To the original exemptions were also added seamen, railway employees, and those engaged in the taking of fish, seafoods or sponges.

The child labor provisions were also defined to exclude children in agriculture, and those employed by their parents. Children under sixteen years were also to be permitted to work to the degree that the chief of the Children's Bureau determined would not interfere with their schooling nor affect adversely their "health and well-being." The proposed method of enforcement through the convict-labor precedent was thus abandoned.

Finally, a provision was added giving the Tariff Commission the power to launch investigations to determine whether the costs of production of any given article were increased by the act, with a view to recommending tariff adjustments which would equalize costs at home and abroad.[47]

This bill in its new form was brought before the Senate for debate on July 29. During this debate, a division of opinion within the A. F. of L. concerning the bill was disclosed. Mr. John P. Frey, the head of the Metal Trades Department, asked several Senators to delay the passage of the bill for another year, and was joined in this request by Mr. Ornburn of the Union Label Department and by Mr. Williams, president of the Building Trades Department.[48] Mr. Green, however, stated that he continued to support the bill, although he hoped certain features of it might later be altered when it was taken up by the House.

In spite of this division of opinion within the A. F. of L., the administration retained sufficient control over the Senate to obtain its passage on July 31 by a vote of 56 to 28.[49]

[46] Section 2 (a) (7).

[47] It should also be added that the provision for the regulation of intrastate commerce to prevent labor strife and price fluctuations in interstate commerce was eliminated from the bill.

[48] *Congressional Record*, 1937, vol. 81, Part 7, p. 7892.

[49] For the debate, see *ibid.*, pp. 7810-7957.

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Fifteen Democrats [50] joined with thirteen Republicans to vote against the measure. During its passage through the Senate, the following amendments were adopted. (1) The exemptions from the act were still further increased. Common carriers by motor truck who were subject to the Motor Carrier Act of 1935 were excluded so far as the provisions concerning hours were concerned. So were air transport employees, and employees of express companies who were under the Railway Labor Act. All of these groups were, however, to be included under the wage provisions of the act. A similar exemption for hours (but not wages) was given to those employed in ginning and baling cotton, canning, packing, or packaging of fish, seafood, fruits, vegetables, and the processing of beets, cane and maple into sugar and syrup when such work was of a seasonal nature.[51] Workers in coöperative dairies and creameries were also to be exempted from the hours provisions.

(2) The agricultural occupations which were exempted from both the wages and hours provisions were broadened still further by making them include: (a) delivery to market and (b) preparing, packaging or storing fresh fruits or vegetables "within the area of production." This reflected the growing opposition of many farming groups to trucking strikes and difficulties, and to the bringing of fruit-packing plants under the Social Security and National Labor Relations Acts. (3) As an additional concession to the South, to the criteria which the Board was to consider in fixing wage rates, there were added (a) "transportation costs or freight rates" which were "discriminatory against any locality or area", and (b) "local economic conditions." (4) The Board was given the power to provide for the "restriction or prohibition of industrial home work." (5) All of the child labor provisions were eliminated in favor of the Wheeler-Johnson Bill, which followed the

[50] These were Senators Bailey, Bulkeley, Burke, Byrd, Byrnes, Connally, Copeland, Donahey, George, Gillette, Glass, Harrison, King and Smith. A crucial motion to recommit the bill was defeated by the narrower margin of 48 to 36. Eight of the thirty-six Senators then voted to support the bill on its final passage. These were Chavez, Davis, McCarran, Maloney, Overton, Pittman, Radcliffe and Tydings.

[51] Section 4 (C).

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principle of the Hawes-Cooper and Ashhurst-Sumners Convict Goods Act. Entrance into any state was denied to goods purduced under child labor conditions inferior to those in the state in question.[52] Agriculture, including sugar beets and tobacco, where the worst abuses occur, was, moreover, to be exempt. Amendments restricting the act to firms employing over ten workers and for the automatic exclusion of goods produced in other countries under inferior conditions were, however, defeated.

4. *The Struggle in the House*

The House Committee on Labor immediately took up the bill as it passed the Senate, and on August 6 reported it out with certain additional amendments.[53] The most important of these were: (1) "outside salesmen" were added to those exempted from the act; (2) the child labor provisions inserted on the floor of the Senate were eliminated and the proposals of the Senate Committee restored; (3) work on the "graveyard" shift (i. e., between midnight and 6 A. M.) was forbidden to women and to children under eighteen years;[54] (4) the union and the feminist demand for equal pay for equal work was recognized by including a provision that no distinction as to either wages or hours was to be made purely on the basis of sex; (5) geographic requirements as to membership on the Board were imposed;[55] (6) centralized administration of the act was forecast by the provisions that the Board was to appoint a director for each state; (7) on the basis of the demands made by President Green of the A. F. of L., it was provided that a labor standards order should be issued by the Board only in those cases where collective bargaining agree-

[52] This was inserted as Section 24 by a vote of 57 to 28.

[53] See House Report 1452, Calendar 535, 75th Congress, 1st session, and S. 2475 which accompanied it.

[54] Other workers were to be paid time and a half for such work.

[55] Each of the following five sections of the country was to be represented by one member: the northeast, southeast, southwest, central, northwest. This would have virtually given the South two members, and was designed as a means of allaying opposition in that region to the act and of protecting its interests.

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ments did not cover "a substantial portion of the employees" in the given occupation, or where "existing facilities for collective bargaining . . . are inadequate or ineffective to accomplish the purposes" of the act. It was furthermore provided that the wages and hours established by collective bargaining should be taken as "prime-facie evidence of the appropriate minimum wage and maximum work-week to be established by the Board for like work done under substantially like conditions." When it is remembered that the Board was restricted from fixing wages above 40 cents an hour or working hours at less than 40 a week, it will be seen that the A. F. of L. had obtained virtually everything for which it had originally contended. President Green gave recognition to this in a statement which he issued upon the Labor Committee's finishing its draft: "The bill as amended provides for the exclusion of governmental action in any industry or class of work which is substantially covered by legitimate collective bargaining. . . . Labor was not happy over the wage and hours provisions of the Senate bill. Through the formula adopted, the conflict is reconciled to the advantage of unions and employers." [56]

With labor now apparently heartily in favor of the bill, and with the prestige of the administration still strong in the country, it was generally conceded that the bill would have passed the House easily, had it been brought to a vote.[57] But the Rules Committee, consisting of five northern Democrats, five southern Democrats, and four Republicans,[58] refused to permit the bill to be brought out onto the floor. What had happened was a combination of the five southern Democrats

[56] *The New York Times*, August 5, 1937.

[57] See the comment by the well-informed Arthur Krock: "There is no question that a large majority in the House wants to act favorably on the Wages and Hours Bill." *The New York Times*, August 18, 1937.

[58] The five northern Democratic members were Messrs. O'Connor of New York (chairman), Sabath of Illinois, Greenwood of Indiana, Harlan of Ohio, and Lewis of Colorado. The five southern members were Messrs. Cox of Georgia, Driver of Arkansas, Smith of Virginia, Clark of North Carolina, and Dies of Texas. The Republicans were Messrs. Martin of Massachusetts, Mapes of Michigan, Taylor of Tennessee, and McLean of New Jersey.

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and the four Republicans against the bill in order to prevent the members from having the chance to vote upon it.[59] In order to obtain action, a group of 88 Democratic members therefore signed a petition demanding a party caucus to consider the matter. When the caucus met on the 19th of August, however, enough Democrats, chiefly from the South, either stayed away or refused to answer to their names when called, so that no quorum could be obtained. Action was thus prevented at this session.[60]

President Roosevelt, however, issued a call on October 12 for a special session which was to begin on November 15, and in a radio address on the same day, he placed wages and hours legislation as one of the foremost items to be considered. When Congress convened, however, the Rules Committee still refused to permit the bill to come to a vote.[61] Further difficulties developed. The A. F. of L., at its annual convention in October, had instructed Mr. Green to consult with the heads of the various departments of the Federation before issuing any further statements on the wages and hours bill.[62] And finally, on November 22, he wrote [63] Mrs. Norton, the chairman of the House Committee,[64] that the experience of the A. F. of L. with the Labor Relations Board had made them opposed to granting discretionary powers to an administrative board.

[59] Rep. Smith of Virginia defended this refusal on the ground that it was too late in the session for the bill to be given "deliberate consideration"; that the bill was "objectionable in many respects"; and that alternative legislation should be considered. *Congressional Record*, vol. 81, Part 7, August 16, 1937, p. 9181.

[60] *The New York Times*, August 20, 1937. The failure to act was denounced by both William Green and John L. Lewis. *Ibid.*, August 21, 1937.

[61] At this point, the supporters of the administration felt that Chairman O'Connor, while not openly opposing the bill, was doing nothing to help get it by the Rules Committee.

[62] This was done to avoid repeating the embarrassment of the preceding summer, when Mr. Green and Messrs. Fry, Ornburn and Williams issued diametrically opposed statements. It is significant that it was Mr. Green who was cautioned to consult with the department heads rather than the latter with him.

[63] *Congressional Record*, vol. 82, Part 1, Appendix, p. 175.

[64] Representative Connery, the former chairman, died during the preceding summer.

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The leaders of the A. F. of L. had been charging that the N. L. R. B., in deciding on the proper bargaining unit, had been unduly favoring industrial unionism and the C. I. O., over craft unionism and the A. F. of L., and that in addition it was setting aside contracts negotiated between employers and A. F. of L. unions on the ground that the latter in specific cases did not represent the actual choice of the workers. Because of this opposition, and because the deepening depression was somewhat weakening the prestige of the President, it it was difficult to force action, although the C. I. O. and Labor's Non-Partisan League joined actively in the attempt. Mrs. Norton had begun to circulate a petition to discharge the Rules Committee from further consideration of the bill as early as November 16, but although 105 of the necessary 218 signatures were obtained in two days, the process of signing began to lag. On November 30, a total of 193 signatures had been attained, and it seemed as though the limit had been reached. Within two days, however, the needed 25 names were secured. It was charged at the time that these had been obtained from the farm bloc by a threat on the part of the urban wages and hours supporters to vote against the pending farm legislation unless the farm group furnished enough signers to the petition to get the issue on the floor.[65] It is not certain how well founded these allegations were, but it is possible that some such influences may have been exercised upon some of the last 25 signers.[66]

In order to reduce or remove the opposition of the A. F. of L., the Committee now proposed to replace the Board with a single Administrator within the Department of Labor.[67] Mr.

[65] See *The New York Times* for December 1 and 2, 1937, and in particular the statements to the press of Representatives Dies and Robertson. See also the speech and resolution of Congressman Fish, *Congressional Record*, vol. 82, Part 1, p. 759.

[66] Of the last twenty-five, five were from the South (three from Florida), and eight from New England. Of the remaining twelve, nine represented rural districts. Three of these were from Oklahoma and two from Indiana. Out of the total of 218, 196 were Democrats, 13 Progressives and Farmer-Laborites, and 9 Republicans. Only twenty-seven of the Democrats were from the South.

[67] See the unnumbered bill introduced on December 14, 1937.

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Green, however, was not to be mollified, and wrote to all the members of the House: "It is inconceivable that Congress would vote to confer upon a single Government Administrator such broad, definite and comprehensive powers. . . . If the Board is dangerous, even under such circumstances and unacceptable, certainly the Administrator is even more dangerous and should be rejected." [68] Congressmen Dockweiler and Griswold then sponsored the A. F. of L. substitute bill,[69] which provided for a flat minimum of 40 cents an hour, with a flat maximum of 40 hours a week and without any regional or industrial differentials. Enforcement was to be in the hands of the Attorney General, with apparently a considerable degree of reliance upon the complaints of aggrieved parties. While the A. F. of L. urged in behalf of this measure that it was simple and removed all possibility of abuse of administrative discretion, its opponents charged that it had been introduced because it was well known that the Senate would never agree to so inflexible a measure. It was defeated by the relatively close vote of 162 to 131; [70] and Mr. Green then joined Mr. Frey in urging that Congress vote to recommit the bill to Committee.[71] Since the C. I. O. and Labor's Non-Partisan League were actively working for the bill, this meant that Congressmen were put in the position of displeasing one or the other of the two labor groups. This permitted many legislators who had been covertly hostile to the bill to pose as friends of labor and supporters of an alternative measure sponsored by the A. F. of L. In addition, the pressure against the bill was heavy from much the same groups which had opposed the President's program to reorganize the Supreme Court, and which were later to work against the governmental Reorganization Bill. One Congressman declared that in twenty years he had never

[68] *The New York Times*, December 13, 1937.

[69] For the text, see *Congressional Record*, vol. 82, p. 1591.

[70] *Ibid.*, pp. 1591-92.

[71] *Ibid.*, pp. 1644, 1677. For Mr. Frey's statement, see *The New York Times*, December 13, 1937.

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received such an avalanche of letters and telegrams as those against the wages and hours bill.[72]

In spite of all this opposition, the administration forces in the House believed that they would be able to carry the measure by a slight margin. On a motion to recommit, however, the bill was sent back to Committee by a vote of 216 to 198.[73] Among the unexpected developments which turned the tide was the switch of seven Congressmen from Louisiana and four from New Jersey. Well-informed observers[74] ascribed these to the influence of Mayor Maestri of New Orleans and Mayor Frank Hague, the Democratic "boss" of New Jersey. In all, twenty-eight Representatives who had signed the petition to bring the bill out on the floor voted to recommit. Three of these were Republicans from New England industrial districts, who were undoubtedly influenced by the A. F. of L. opposition. Fifteen were Democrats from rural districts in the North and West, six were from the South (three from Florida), and four were from New Jersey.

Not only was the bill killed for the special session, but it seemed to be dead for the regular session, which began shortly after the New Year. During the next three months, however, certain events developed which revived it. The first was the Democratic primary election in Alabama. Here, Senator Lister Hill, who had supported the measure, and who was a supporter of the administration, won a decisive victory over the anti-New Dealer, ex-Senator Heflin. Then the poll of the Institute of Public Opinion, whose reports have come to be regarded as highly reliable, was announced, which showed a big majority of the voters to be apparently in favor of the

[72] Congressman Conley (N. Y.), *Congressional Record*, December 13, 1937, vol. 82, Part 2, p. 1415.

[73] Voting against recommittal were 179 Democrats, the 13 Progressives and Farmer-Laborites, and 6 Republicans. Voting for recommittal were 133 Democrats and 83 Republicans.

[74] *The New York Times*, December 22, 1937. Mayor Hague, it will be remembered, was engaged in a controversy with the C.I.O., and was forbidding representatives of that organization to hold public meetings in Jersey City. Mrs. Norton, the representative from Jersey City, voted against recommittal. As chairman of the House Labor Committee, which had pushed the measure, she could not practically, however, have done otherwise.

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measure. This was true of every section of the country (including the South), with the exception of the West Central, where the division of opinion was even. Finally, on May 3, came the victory of Senator Claude Pepper over Congressman Wilcox in the Democratic senatorial primaries of Florida. Senator Pepper had been an ardent supporter of the wages and hours bill, while Mr. Wilcox had steadily opposed it.

With all these developments, the temper of the House changed again in favor of the bill, and the House Committee wanted to report it out with certain changes. For a third time, however, the Rules Committee refused to give its consent.[75] But after the Florida primary, a petition to discharge the Rules Committee from further consideration of the bill, and to bring it out on the floor of the House, obtained the needed 218 signatures in less than two hours and a half. Before the day was over, many other members announced for themselves and for absent colleagues that they too would have signed if they had only had the oportunity. It was now evident, therefore, that the bill would easily pass.

The bill, which was reported out by the Committee by a vote of 10 to 8, had in the meantime again been revised so as to minimize opposition, particularly from the A. F. of L. These concessions to the A. F. of L. had indeed by now removed the opposition of this organization; and this fact played a part in obtaining the signatures needed to discharge the Rules Committee and helped to ensure passage. To meet the criticism that the former draft had not provided any bedrock minimum for wages and no absolute maximum for hours, the new bill provided an initial wage "floor" of 25 cents an hour and an initial "ceiling" for hours of 44 per week.[76] The minimum wage rate was to increase each year by 5 cents until 40 cents was reached; and the maximum work-week was to decrease by 2 hours during each of two successive years to

[75] The Republican Congressman Martin of Massachusetts was now in favor of reporting the bill out.

[76] Mr. Green had appeared before the Committee and had agreed to support a minimum wage of 30 cents with mandatory increases to 40 cents. He also had agreed to an initial work-week of 44 hours, to be reduced annually until a 40-hour week became general.

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the maximum of 40 hours. The basic weekly wage was, therefore, to be as follows:

1st year	$11.00 (44 x $.25)
2d year	12.60 (42 x $.30)
3d year	14.00 (40 x $.35)
4th year and thereafter	16.00 (40 x $.40)

These wages and hours were to "apply nationally in each particular industry. There are to be no differentials either between sections of the United States, between industries, or between employers." [77]

This adoption of a progressive flat rate law was intended to conciliate the A. F. of L. by reducing the need for administrative discretion, and yet by fixing the initial wage at so low a figure as not to overburden industry. With the idea of wage-fixing by a board thus abandoned, there seemed little need for a special administrator. This projected office was, therefore, abandoned, and the administration was given directly to the Secretary of Labor, whose chief duties were: (1) to decide after hearings whether a given industry was engaged in or affected interstate commerce; (2) to inspect and investigate, in coöperation with state departments of labor, in order to reduce violations of the act.

In opposition to this flat rate bill, Representative Ramspeck of Georgia sponsored an alternative [78] to the majority draft, which provided for both a Board and a basic wage not to exceed 40 cents, nor initially more than 5 cents an hour above the weighted average for the occupation. Wages could subsequently be increased (but need not be) up to the 40-cent limit, but not by more than 5 cents a year. These basic wages could, moreover, be altered according to (1) living costs, (2) relative transportation costs, and (3) local economic conditions. These conditions would obviously have permitted the Board to grant regional differentials to the South. The Board was also to be given the power to fix maximum hours by occupations between the range of 48 and 40, and to vary the rates between

[77] Report of House Labor Committee, April 21, 1938. Report No. 2182, 75th Congress, 3d session, p. 6.

[78] See mimeographed Sub-Committee Print, April 7, 1938, 25 pp.

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industries. This proposal, which had received 8 votes in committee, was defeated in the House by a vote of 139 to 70, and that body then proceeded on May 24 to pass the Norton bill by the overwhelming vote of 314 to 97.[79] During the debate, a few further changes were made in the bill which widened the agricultural exemptions still further; while it was specifically stated that retail industries, the greater part of whose business was in interstate commerce, were to be completely exempted from the act.[80]

5. *The Agreement of the Conference Committee*

There now remained the barrier of reconciling the differences between the House and Senate versions. A group of seventeen southern Senators met to discuss the desirability of providing differentials for their region, and it was rather clearly intimated that unless these were granted, a filibuster would be conducted against the bill.[81] The two bills were then sent to a joint conference committee headed by Senator Thomas of Utah and Mrs. Norton. The questions of possible regional differentials, of flexible versus inflexible standards, and of the best administrative agencies and procedures to set up, were the chief objects of debate. Finally, a compromise was reached which provided a combination of flat rates and flexibility for wages, and graduated flat maximum hours. During the first year, no wage was to be less than 25 cents. This minimum was to be raised to 30 cents beginning with the second year. An administrator, with the aid of advisory committees, could, however, fix higher wages which were not to exceed 40 cents an hour. While regional differentials were not specifically mentioned, it was possible to graduate the rates between the bedrock minimum and the 40-cent limit so that

[79] The majority was composed of 256 Democrats, 46 Republicans, and 12 Progressives and Farmer-Laborites; while 56 Democrats and 41 Republicans voted against the bill. Of the 56 Democrats who voted "no", 52 were from the South and 4 from the Middle West.

[80] For the text of the bill as passed by the House, see S. 2475, 75th Congress, 3d session, May 25, 1938.

[81] See the statement by Senator Ellender of Louisiana, *The New York Times*, May 27, 1938.

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such factors might be taken in account. In the case of hours, a 44-hour maximum was provided which was to decrease by 2 hours a week during each of two years until the 40-hour week was reached. The burden of such provisions was lightened, as we shall see, by a considerable degree of tolerance for seasonal and other industries, while the time and a half provision was retained for overtime. In this form, the joint conference report was signed on June 12 by all of the fourteen members of the Joint Committee. On the next day, the House passed the measure after a very brief debate by the vote of 291 to 89; and on the 14th it was passed by the Senate without a record vote. An appropriation of $500,000 to administer the act during the year 1938-39 was made. On June 25, the President signed the measure, which then became effective on October 24.*

* To be concluded in the next number of this review.—ED.

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ANGLO-IRISH ACCORD

DURING the month of April 1938 the United Kingdom and Ireland entered into certain Agreements to promote mutual "relations of friendship and good understanding."[1] With one exception, all the outstanding differences between these century-old enemies were thereby composed. The unity of Ireland proved to be an issue beyond immediate settlement. This Anglo-Irish pact comprised three agreements linked together as an interconnected whole and arranged under a common preamble. The three headings covered all the major differences apart from partition: Defense, Finance and Trade. The first Agreement provided for transfer of certain coast defense stations from British to Irish control. It also included the abrogation of provisions of the Treaty of 1921 which authorized use of Irish harbor and other facilities by British forces in time of war or strained relations. The second Agreement settled the dispute on land annuity payments and certain other English claims against Ireland. Therein Ireland contracted to make a lump-sum settlement and both governments agreed to abolish penal duties imposed during the economic "war". The third Agreement dealt with trade barriers and may be described as a series of bargains such as any two countries might make for the reciprocal benefit of their economic interests. For the Irish government, these Agreements were initialed by a delegation headed by the Taoiseach, Prime Minister de Valera himself.

After the advent of the Fianna Fáil party to power in 1932, its leader, de Valera, was occupied with political and constitutional policies aimed at the severance of every fetter which strengthened British control over his people. From 1932 to 1937 a disciplined majority in Dáil Eireann supported him in his determination to pay no more land annuities into the British

[1] Preamble to the *Agreements* of April 1938.

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exchequer, and in the enactment of a series of constitutional amendments which denied the right of appeal from Irish courts to the Judicial Committee of the Privy Council in London, abolished the oath of allegiance to the Crown, struck all reference to the King from the Irish constitution, and removed the governor-general, who, as representative of the Crown, gave formal assent to Irish legislation. In 1937, these moves were capped with a new constitution. According to this document, *Bunreacht na hEireann,* the jurisdiction of the newly proclaimed State of Eire was for the time being restricted to the twenty-six counties of the superseded Free State, provision being made for the ultimate inclusion of the six northern counties (Ulster) still forming part of the United Kingdom. To take the place of the governor-general and to perform other formal executive functions, a popularly elected President of Ireland was provided. In the *Bunreacht,* however, a loophole was left open whereby Ireland (Eire) might continue to be associated by statute, of her own free will, with the British Commonwealth of Nations for purposes of external relations. This left in force the Executive Authority (External Relations) Act of December 12, 1936. This important Act provided in part:

> It is hereby declared and enacted that, so long as Saorstát Eireann is associated with the following nations, that is to say, Australia, Canada, Great Britain, New Zealand, and South Africa, and so long as the king recognized by those nations as the symbol of their co-operation continues to act on behalf of each of those nations (on the advice of the several Governments thereof) for the purposes of the appointment of diplomatic and consular representatives and the conclusion of international agreements, the king so recognized may, and is hereby authorized to, act on behalf of Saorstát Eireann for the like purposes as and when advised by the Executive Council so to do.

So much for the Irish side of the picture after de Valera returned to power. When the land annuity payments owed to England by Ireland were withheld, the British government retaliated by placing heavy duties on Irish imports. The Irish government then replied in kind, and an economic war ensued.

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Far from benefiting either party, this state of economic hostilities was detrimental to Irish agriculture and to English industry alike. A hot-house industrial development was nurtured in Ireland. Current doctrines of economic self-sufficiency and autarchy were applied to the twenty-six counties which for centuries had been basically agricultural. These measures made it difficult for Irish farmers to sell their cattle across the Irish Sea, and made it expensive if not impossible for them to buy English goods at home. No longer was Ireland to be called England's pasture and England's market. The economic barriers between the two countries caused an upheaval in Ireland that was greater than it would have been in a country where native industry stood ready to supply the demands.

The effect of the economic war was soon evident in the statistics of Anglo-Irish trade. From 1931 to 1934 the value of United Kingdom imports from the Irish Free State dropped from £36,500,000 to £17,200,000; the value of United Kingdom exports to the Free State dropped from £30,500,000 to £19,500,000. In January 1935, the two governments entered into a Coal-Cattle pact which ameliorated but did not end the economic "war". Irish cattle quotas were thereby increased 33⅓ per cent in return for the concession of a practical monopoly of Irish coal imports to the United Kingdom. Both governments agreed to reduce certain penal duties when the Coal-Cattle pact was renewed in 1936. British duty on Irish horses and Irish duties on British sugar and sugar products were abolished when the same pact was continued in 1937. As a result of the Coal-Cattle pact, Anglo-Irish trade rose from the 1934 level of £36,700,000 in value to £42,700,000 in value during 1937. Whereas in 1931 the Irish Free State had purchased 7.8 per cent of the total of British exports, in 1937 the Free State took only 4.9 per cent of the same. The economy of southern Ireland was vitally affected because more than 90 per cent of Free State exports are to the United Kingdom.[2]

[2] *The Bulletin of International News*, vol. XV, No. 9 (May 7, 1938), pp. 390-392.

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To the extent that de Valera was attempting to make his country economically independent, official planning was necessary. The cause for this planning was not a desire for dictatorial powers over the national economy. It was a necessity arising from the Irish political crux. The official wheat-growing campaign was designed to make Ireland self-sufficient in this staple and to promote agricultural employment. De Valera made no pretensions in his economic program beyond desiring material security without English support. He was not planning for an "economy of abundance" but rather that the necessities of life be raised or manufactured at home. The infant industries established with encouragement of the government were notably those required to meet immediate wants: boot factories, canning plants, clothing manufactories and sugar-beet refineries. Ireland had at first to make capital outlays for her infant industries; factories had to be built and machinery installed. Such outlays kept up the import side of the trade ledger. Exports remained low. The government did not participate directly in subsidizing the new enterprises, but under governmental auspices a credit company was set up to provide capital. Partition, abhorrent as it may be to the underlying doctrine of Irish nationalism, nevertheless operated to the benefit of the nascent industries in southern Ireland. By rigid border inspection and by high tariffs, the long established industries of Northern Ireland were excluded from competition. It was Fianna Fáil's boast in 1937 that over eight hundred new industries had been created and that unemployment had declined.

In the light of his apparently defiant program of political and economic independence, it may have surprised some when early in 1938 de Valera at long last went to London. He not only went, but came home with strikingly satisfactory results. What is the explanation? Did de Valera always have in mind this "road back", or was he forced to travel it by circumstances? The charge of inconsistency against him is not new. Now that his opening gambit has been proved successful, he can justify the past moves of his economic campaign. They now appear to have been necessary in bringing England to

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recognize Ireland's sovereignty. Reinforced by consciousness of a native language and culture, as well as by some degree of economic self-sufficiency, de Valera made good his challenge of 1932 when withdrawal of the sacred privileges of the Empire was threatening him: "Britain cannot frighten us."[3] Time and again he has stated that an independent and united Ireland would be England's best hope of friendly relations between the Irish and the British people. Ireland would never yield under compulsion; of her own free will she would be willing to bargain with England. In this de Valera was relying upon one fundamental fact; his countrymen do not dislike the English people. Their quarrel has been with specific English governments. That de Valera intended from the beginning of the economic war to end it and resume economic coöperation with England as soon as Irish freedom was fully acknowledged appears from a statement dictated by him in 1932 on the eve of the annuities dispute: "We are united to England by our geographical position and active economic relations. If we were entirely free; if Ireland were an independent democracy, entirely mistress of her destiny within her natural frontiers, I, for my part, would favor a very friendly political understanding with Great Britain."[4]

When, on July 1, 1937, his *Bunreacht* was adopted by plebiscite, de Valera had reached the outermost point of his detour. He was then ready for the road to London. He saw a signpost that month which must have been disturbing. His slender majority in the Dáil was diminished at the general election to the point where he had only 69 Fianna Fáil deputies in a house of 138 members. At the same time the Labor party secured a substantial increase in its representation in the Dáil. By pursuing further the economic war with England, de Valera might be preparing his own political demise. The economic war with its resultant English penal duties on Irish cattle was

[3] De Valera was speaking to a Dublin audience at the time of his controversy with the United Kingdom over the oath of allegiance and the land annuities. *Time*, April 11, 1932.

[4] *Ibid.*, April 11, 1932. This statement was made in an interview granted to Jules Sauerwein, as foreign news editor of *Le Matin*.

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costing him votes in agricultural regions. A further development of infant industries in Ireland would bring more organized labor forces into the political picture. Over all was the rise in the cost of living which meant much to white-collar workers in the cities. To force his Anglo-Irish policy further might have paved the way for a return of Cosgrave's Fine Gael party to power before the policy bore its intended fruit. Moved partly by plan and partly by circumstance, de Valera decided that the time had come to negotiate with England. To negotiate meant to compromise and this in the past has not been de Valera's long suit. But time and political responsibility have had their effect upon the intractable Commandant of Easter week, 1916.

Time and the press of circumstance had likewise softened British intransigeance. In 1921, Lloyd George had forced Griffith and Collins to terms overnight with a threat of immediate and terrible war. As recently as 1932, the United Kingdom had exerted not armed force but economic weapons against her unruly dominion across the Irish Sea. When, however, the *Bunreacht na hEireann* went into effect on December, 29, 1937, no threats of coercion or of exclusion from the Commonwealth were forthcoming. On the contrary, a statement was issued by the British government which read in part as follows:

> His Majesty's Government in the United Kingdom has considered the position created by the New Constitution which was approved by the Parliament of the Irish Free State in June, 1937, and came into force on December 29. They are prepared to treat the new Constitution as not effecting a fundamental alteration in the position of the Irish Free State, in future to be described under the new Constitution as "Eire" or "Ireland", as a member of the British Commonwealth of Nations.

The statement concluded with a reservation. His Majesty's Government could not recognize the adoption of the name Eire or Ireland or any other provision of Articles 2, 3 and 4 of the new constitution as affecting in any way the position of Northern Ireland as an integral part of the United Kingdom.[5]

[5] *The Manchester Guardian*, December 30, 1937.

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The policy of "appeasement", current early in 1938, made the arrival of the Irish negotiators welcome in London. The economic war had wrought hardships not in Ireland alone. England had lost a sizable market for her industrial surplus, and English labor was increasingly sympathetic toward the Irish point of view. In 1932, when England still stood upon her legal rights with reference to the land annuities, the shadow of Hitler was not over Europe. During Anglo-Irish negotiations in 1938, Hitler marched on Austria. This display of force made England eager to consolidate her political and military strength and to settle outstanding issues which might weaken the front she could present to Europe. Once again came true the adage that "England's emergency is Ireland's opportunity." The English government at once entered into an Anglo-Italian pact. This diplomatic stroke was followed closely by the pacific settlement of all but one of the outstanding differences with Ireland.

Before the Anglo-Irish negotiations began, it was reported that the vexed question of partition would be the first subject broached by de Valera. This issue it was upon which the Irish delegates yielded in 1921, and the partitioning of the island has ever since been de Valera's worst grievance. That he did not allow the immediate insolubility of that grievance to prevent the present Agreements upon other matters indicates not that he has given in, but that he is biding his time. In London, he may have realized more clearly that England alone is not able to act; that the six counties of Northern Ireland are holding firmly onto the mother country's apron strings. Lord Craigavon, prime minister of the six-county government, lost no time in calling an election in 1938 when he knew that England was to be forced to consider the reunion of Ireland. With the election returns confirming his insistence upon partition, he then traveled to London during de Valera's negotiations. It becomes increasingly evident that any attempt at *rapprochement* must be made not with London alone but also with Belfast.

The real question in the minds of some Englishmen is not so much whether compromise between North and South is to

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come, but whence it is to come. St. John Ervine, believing that "the inexorable logic of daily life" has now proved the indispensability of a union between North and South in a league with Great Britain, considers that the South will change its course sufficiently to be in line with the loyalist commitments of the North. It is England's past commitments rather than immediate necessities which prolong her protection of Ulster. The six counties, formerly her only foothold across the Irish Sea in time of war, have since the Agreements become strategically less significant in view of the reconciliation with the twenty-six counties. Englishmen are not blind to the expense in the duplication of administrative systems for the small island. Another concern relates to religious intolerance and consequent governmental action in Northern Ireland. Henry Harrison expressed in a letter from London to the editor of *The Manchester Guardian* one point of view: "... it is unthinkable that the plight of the subject Nationalist population (in Ulster)—deprived of political and constitutional rights under and in the name of the British Crown and Parliament—shall remain unchanged." [6] Greater recognition of the Roman Catholic minority with representation in government by a return of proportional representation would be timely.

Prime Minister Chamberlain, nevertheless, upon presenting the Agreements to the House of Commons, assured the members that there was no secret deal between Westminster and Dublin to end partition.[7] De Valera in recommending the Agreements to the Dáil indicated that the question was by no means a closed book: "Partition was one of the first things discussed at the London conference and one of the last. To the extent that there is no reference to partition in the agreement, it is a poor document. It is one of the advantages of the agreement, however, that our whole attention will now be concentrated in an effort to end that wrong." [8] This declaration was subsequently acted upon during October 1938. After the Munich conference paved the way for the transfer of the

[6] *The Manchester Guardian*, May 2, 1938.

[7] London *Times*, May 6, 1938.

[8] *The New York Times*, May 6, 1938.

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Sudeten areas of Czechoslovakia to Germany, de Valera informed Prime Minister Neville Chamberlain that he considered the time opportune for a plebiscite in parts of Northern Ireland.

The first section of the Anglo-Irish accord of 1938 is the port Agreement, representing the fulfillment of a long announced objective for de Valera. Article 6 of the Treaty of 1921 provided that until the Irish Free State should undertake its own coastal defense, the defense by sea of Great Britain and Ireland would be undertaken by His Majesty's Imperial Forces. Article 7 of the Treaty specified that in time of peace the Irish government should afford to British forces such harbor facilities and other facilities as indicated in an annex. These included Admiralty property and rights at Berehaven and harbor defenses at Berehaven, Cobh (Queenstown), and Lough Swilly. Article 7 stipulated that the Irish government should in time of war or strained relations with a foreign power afford to British forces such harbor and other facilities as the British government might require for the purposes of defense by sea, a responsibility which England had undertaken in the preceding article.

These articles of the Treaty were a thorn in de Valera's flesh. Before and after coming to power as the leader of a majority in the Dáil, he repeatedly pointed to British occupation of the ports as a limitation upon Irish sovereignty and independence. He cautioned that the British presence in the ports and British Treaty rights to the use of Irish harbors in time of war would preclude the maintenance of Irish neutrality if such was the desire of the Irish parliament. In the constitution for the new State of Eire no reference was made to the problem of the ports. This was not a unilateral issue and de Valera was clearing away basic constitutional issues before raising those involved in Articles 6 and 7 of the Treaty. The port Agreement specifies that Articles 6 and 7 and the annex thereto of the Treaty of 1921 "shall cease to have effect." Provision is made that, not later than December 31, 1938, the United Kingdom will transfer to Ireland the Admiralty property rights at Berehaven and the harbor defenses at Berehaven, Cobh and Lough Swilly. The British government will trans-

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fer buildings, magazines, emplacements, instruments, and fixed armaments with ammunition therefor at present at these ports.

Both England and Ireland will profit by this Agreement with reference to the ports. The United Kingdom loses legal rights embodied in the Treaty of 1921, but gains immeasurably according to the de Valera formula that an independent and friendly Ireland is a larger asset. Cosgrave, leader of the Irish opposition, pointed out the increased expense to Ireland of defending the ports, claiming that this step could have been taken some years ago but that he had "hesitated to do it because of the cost."[9] The Agreement for evacuation of the ports does not constitute a comprehensive defense agreement between the two countries. This can hardly come until Ireland has had more time to finance and equip her own forces, or perhaps until European warfare involves her in some avowed policy of neutrality or alliance with Britain. In the meantime, England has only the Irish prime minister's assurance that:

> We mean to see that whatever use is made of our territory will be only that use which is agreed to by an Irish Government in the interests of Ireland and in no other interests. And it is in the interests of Ireland—and if other interests are affected by it we cannot help that; if they were affected so much the better—clearly, I hold, in the interests of the Irish nation to see that our territory is not going to be used as a basis of attack upon a neighbouring country.[10]

Ireland is now free to make her own plans for the defense of her ports. She is no longer committed by treaty to furnish facilities to British forces in time of war or strained relations. At the same time Ireland is cognizant of the fact that the British navy must, because of geography, defend the twenty-six counties as well as Ulster from attack by another power. Ireland is automatically protected by Britain's fear of a hostile power at the "back door".

[9] *The Irish Press*, April 28, 1938.

[10] *Ibid.*

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De Valera has in turn made it clear "that this government is not going to permit our territory to be used as a basis for attack against Great Britain."[11] In urging the Dáil to ratify the pact of 1938, he pointed out that so long as England was no longer hostile to the assertion of Irish rights, it was to Ireland's advantage to have a powerful neighbor between her and the Continent. From the printed assertions of both Chamberlain and de Valera, one cannot help observing that the current European situation has softened both English and Irish points of view. There is safety for both islands in solidarity. Beyond verbal assurance on the matter of Irish neutrality, de Valera did not go, much to the alarm of at least one British statesman. Winston Churchill, keeping alive the fear of "dark forces" across the Irish Sea, attacked the new pact for its loss of the ports without any Irish guarantees. He expressed what is perhaps not a groundless fear that the South of Ireland might in future demand Ulster as the price of coöperation if England goes to war.[12]

The second Agreement pertains to the settlement of the land annuities and other financial claims against Ireland. The issue of the land annuities (payments on the installment system by Irish tenants for land bought from English landlords) was one of the factors which brought about the defeat of Cosgrave and the accession of de Valera to power in 1932. By a secret agreement in 1923 and by a subsequent agreement in 1926, Cosgrave had pledged the collection of the annuities and the transfer of the money so collected to appropriate funds in England. Shortly after de Valera came to office, the British government was notified that the Irish government proposed to discontinue the land annuity payments amounting to some £5,000,000 per annum. In the course of the 1938 negotiations, British claims based on agreements made during the Cosgrave régime were advanced to the capital amount of £78,000,000 under the head of land annuities, and £20,000,000 on all other items. These claims did not include an annual payment by Ireland of £250,000 in respect of damage to prop-

[11] *The New York Times*, April 28, 1938.

[12] London *Times*, May 6, 1938.

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erty under an agreement of December 1925, and this latter item remains an acknowledged responsibility of the Irish exchequer. On the other hand, the British government agreed to settle all other outstanding claims amounting to £98,000,000 for the lump-sum payment by Ireland on or before November 30, 1938 of £10,000,000. De Valera had often said that he would not pay another penny in land annuities. Upon his return to Ireland after signing the 1938 Agreements, he was quick to point out that the payment of £10,000,000 amounted to only one half of the outstanding British claims apart from the land annuity capital figure of £78,000,000.[13]

In return for the lump-sum payment of £10,000,000, Ireland received more than the liquidation of other financial claims of the British government against her. The government of the United Kingdom also undertook to abolish the duties of customs chargeable under the Irish Free State (Special Duties) Act of 1932 on articles imported from Ireland. This, in turn, demanded a *quid pro quo*. The financial Agreement concludes, therefore, with the undertaking of the government of Ireland to abolish the duties of customs known as Customs (Emergency) Duties chargeable on goods produced or manufactured in the United Kingdom and imported into Eire. Both of these undertakings as to the elimination of special tariff schedules took effect on May 19, 1938 when the third or trade Agreement by joint arrangement came into force.

Whatever one's opinion may be upon the claim that de Valera has won the economic war, the financial Agreement is a tangible accomplishment for Ireland. Granting the premise of British recognition of Irish sovereignty, the Fine Gael assertion that such a settlement could have been obtained years ago is untenable. The Irish farmers paid dearly from 1932 to 1938 in English customs duties for de Valera's victory on the annuity dispute. England's decision to treat the annuities as a bad debt in the interests of Anglo-Irish appeasement was prompted

[13] The Irish half-yearly Exchequer return for October 1, 1938 disclosed payment in full of the £10,000,000 to the United Kingdom. Early in October 1938 the transfer of the ports to Irish forces was completed. See *The Weekly Irish Times*, October 8, 1938.

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partly by current European developments, and partly by a reappraisal of the stamina of Irish agriculturalists in the economic war. Liberal sentiment in England seems to be one of satisfaction for having got a fair bargain from Ireland.[14] J. A. R. Marriott, however, was roused in behalf of "that patient camel—the British taxpayer." Writing from London, he said: " . . . the Southern Irish Exchequer and the Irish tenants have been treated by Great Britain with extraordinary generosity, and . . . in order to complete a social and economic revolution in their favour, the British taxpayer will now be required to assume an additional and heavy burden." [15] De Valera, for his part, cannot do otherwise than breathe more easily for he could hardly have been uninformed as to the plight of the Irish farmer in the "war".

The third or trade Agreement is a series of bargains between Ireland and the United Kingdom in the matter of customs applicable to their respective exports to one another. It stakes out certain major principles and leaves much to be done by way of detail through subsequent acts and future negotiations of the two governments. It deals not with the penal or retaliatory duties, which grew out of the struggle over the land annuity issue in 1932, but with the remaining protective duties. It went into effect on May 19, 1938 and will remain in force for three years, to be subject thereafter to termination by either party, provided six months' notice is given.

In broad outline, this third Agreement gave Ireland rights she might have obtained at the Ottawa conference of 1932, if no tariff war had then existed with the United Kingdom. Ireland obtained basically the same position as a British Dominion importing goods into the English market. When the trade pact took effect, the British government permitted goods grown, produced or manufactured in Eire which are liable to duty under the Import Duties Act of 1932, or under Section 1 of the Ottawa Agreements Act of 1932, to enter free. Certain products such as beer, spirits and sugar, how-

[14] See *The Manchester Guardian*, Editorial, May 6, 1938.

[15] J. A. R. Marriott, Letter on the Anglo-Irish Agreement, London *Times*, May 5, 1938.

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ever, remained subject to revenue duties. Further, the United Kingdom retained the right to impose quotas on various agricultural products in order to promote orderly marketing.

In return for the British concessions as to the entry of Irish goods, Ireland agreed to certain limits and policies in relation to her own tariffs. The Irish government promised to retain free entry for such British goods as are now free of duty. It undertook to remove or reduce customs duties on specified products of the United Kingdom. Existing margins of preference for United Kingdom goods imported into Ireland will be maintained. A preference will be granted to goods of the United Kingdom in any new duties which may be imposed or in any adjustments of existing duties. Most important of all, the Irish government contracted to undertake a review by the Prices Commission of protective tariffs and other import restrictions. This review will be made

> in accordance with the principle that such duties and restrictions upon goods produced or manufactured in the United Kingdom shall be replaced by duties which shall not exceed such a level as will give to United Kingdom producers and manufacturers full opportunity of reasonable competition while affording to Irish industries adequate protection having regard to the relative cost of economical and efficient production, provided that in the application of this principle special consideration may be given to the case of industries not fully established.

Eire agreed further to adjust her tariffs in accordance with the recommendations of the Prices Commission. Although the latter is, of course, an Irish administrative body, British producers and manufacturers are entitled to "full rights of audience," rights which were objected to by a labor representative in the Dáil. An additional Irish concession was that coal, coke and manufactured fuel of British origin would be admitted free of duty while a duty of not less than three shillings per ton would be imposed on such products of other origin. The pact provides for consultation between the two governments when either finds that the objects of the Agreement are not being attained.

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The trade Agreement has caused Irish industrialists certain misgivings. The Federation of Irish Manufacturers at first alleged that Article 5 "puts a definite limit to industrial development" at home.[16] During debate in the Dáil, de Valera did his best to dispel these doubts by pointing out that the Prices Commission was in the nature of a judicial body, that it would consider all relevant factors. He added that his desire to see the industrial policy of Eire succeed was matched by his anxiety to prevent unfair exploitation of labor or profiteering at the expense of the consumer. One of his ministers took occasion to warn the nascent industries against exploiting a protected market. No one can foresee the ultimate effects of the trade pacts on native Irish manufacturers until the Prices Commission has acted. It would appear that the farmers have everything to gain from the arrangements while the fledgling business men have much which they might lose. De Valera insists that his country will not go back to grass.

The impact of economic forces upon Anglo-Irish relations has been decisive for centuries. Whenever agitation for Irish nationalism hardened into rebellion, England waved the big stick of economic threats. As recently as 1932, England not only waved the big stick, but struck with it. It was not until then that the smaller island dared defy penal duties on her agriculture in embarking upon the risky program of self-sufficiency. Throughout the de Valera régime, economic measures have been only the concomitant of political objectives, never an end in themselves. As soon as England showed by her passive acceptance of the new *Bunreacht* that she acknowledged Ireland's sovereignty and her self-defined idea of external association, de Valera could resume the natural economic interrelationship of his country with England.

Now that de Valera has achieved his program, conservative Ireland as represented by Cosgrave's party has more to say in his favor. In the Dáil, de Valera was hailed ironically as a convert to Fine Gael policies. It was suggested that he had learned his lesson as to the interdependence of Irish agriculture and English industry. The three Agreements were ratified in

[16] *The Irish Press*, April 28, 1938.

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the Dáil with only one vote cast in opposition, that of James Larkin, the Dublin labor leader. The contention that de Valera was a "last-ditcher", incapable of negotiation, will be modified. He is incapable of negotiation on constitutional and political points where he feels that the sovereignty of his country is at stake. With the new constitution in force, he was willing to temporize with the ancient foe. Unlike the attitude of the former British Secretary for Dominions, J. H. Thomas, who in 1932 had stood on the letter of the old Treaty, Malcolm MacDonald was willing to go half way. Neither side stood so much upon rights as upon realities. With de Valera, all things may be possible, even the solution of partition. If in these Agreements Ireland has made a shift in course, England has likewise undergone a change of heart. Malcolm MacDonald, speaking in London after the Agreements were signed, struck a new note: "Ireland and Britain are the two mother countries of the British Commonwealth of Nations and on that basis they should be linked very closely together." [17] Thus far since the time of Henry II has the course of empire come its way.

During June of 1938, a general election in Eire left no question as to the popularity of de Valera's policies. Late in May, the government party sustained a defeat on a technical question in the Dáil by the slender margin of one vote.[18] At the time of this reverse neither de Valera nor Sean T. O'Kelly, second in command, was in Dublin. De Valera had been irritated for some time by the difficulties involved in governing without a clear majority. He was restless under his party's dependence upon the Labor deputies for a safe margin on controversial issues. Accordingly, he seized this technical defeat to go to the country. In so doing, he relied upon the political prestige and favor accruing from the recent Anglo-Irish Agreements.

[17] Mr. Malcolm MacDonald, Secretary of State for Dominion Affairs, speaking in London, London *Times*, May 7, 1938.

[18] The defeat for de Valera's Fianna Fail resulted from a motion by two Cosgrave members. Their proposal asked the Dáil to create an arbitration board with power to deal with grievances in the civil service.

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As Irish elections go, that of June 17, 1938 was unusually quiet and orderly. De Valera's program had left no major differences between him and Cosgrave's Fine Gael. The campaign of Fianna Fáil for a working majority was led by de Valera, moving rapidly from constituency to constituency. In the face of the success of his negotiations with Great Britain, he could afford to stand on his record. Fianna Fáil candidates stressed the many constitutional advances Eire had made. They pointed to the constitution of 1937 and to the Anglo-Irish Agreements of 1938. Cosgrave's adherents futilely protested that de Valera was really following policies Fine Gael had long advocated. They promised de-rating for agricultural lands and a more rapid division of large land holdings to small proprietors. Apparently, however, the election of 1938 was decided when de Valera brought back the Anglo-Irish Agreements. It is hard to believe that the campaign as such greatly influenced the results.

The election gave Fianna Fáil an over-all majority of 16 in the Dáil. The seats were distributed as follows: Fianna Fáil, 77; Fine Gael, 45; Labor, 9; and Independents, 7. (The general election of 1937 had produced this deadlock: Fianna Fáil, 69; Fine Gael, 48; Labor, 13; and Independents, 8.) To achieve such a majority in 1938 under proportional representation was a telling victory for de Valera. Fianna Fáil gained votes among farmers, laborers, and well-to-do Protestant groups. When the votes had all been counted, de Valera could well say: "Now it is possible to pursue a steady course." [19]

[19] *The Irish Press*, June 22, 1938.

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VIENNA TAXES SINCE 1918

FOR the second time in four years a mayor of Vienna has been removed by force. In 1934 it was Karl Seitz, elected as a Social Democrat; in 1938 it was Richard Schmitz, appointed as the representative of the authoritarian régime which Hitler overthrew. Whatever one may think of recent events in Austria, they at least provide a division point from which one may look back over a period which is now closed. Since the termination of the war of 1914-1918 Vienna has attracted world-wide attention for a number of things—other than political disturbances—particularly for the social welfare work of Tandler, the school reforms of Glöckel and the general housing program of the Social Democrats. Basic for all of these, of course, was the tax system which made them possible. But this system was always under fire from more conservative groups, so that it was to be expected that changes would be made in 1934. It is the purpose of this paper to examine the economic and social implications of these changes with particular reference to official publications of the Schmitz régime.*

A necessary preliminary to such an examination is a brief review of the former tax systems. Before the War the major source of income for Vienna was a tax on rents which provided about half of the revenues. Approximately 20 per cent came from the profits of the municipal gas and electric works, the street cars, and the water works; another 11 per cent from consumption taxes on alcohol, meat and other comestibles; and the remainder from a variety of sources. The socialist administration, dating from May of 1919, set out to alter the tax system in such a way as to throw more of the burden on

* The author acknowledges with thanks financial assistance from the Social Science Research Council and from the Institute of Social Sciences of the University of California during his year in Central Europe.

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those better able to pay. During their fifteen years in the city hall the socialists levied about twenty different taxes of which the most important five contributed approximately 80 per cent of the strictly city tax revenue. In 1929, the year in which the municipality's income was the highest, these five, in order of fiscal importance, were: welfare tax, collected from employers alone at a fixed percentage of their wage bills but not as the name would indicate a "purpose" tax; house construction tax, a steeply progressive rent tax used exclusively for the purpose indicated; the luxury food and drink tax, explained in more detail later; the beer tax; and the amusements tax.[1]

Classified as "taxes on luxury or extraordinary expenditure" were the taxes on amusements, luxury foods and drinks, beer, automobiles, household servants (in excess of one), saddle and carriage horses, and dogs. The proceeds of these seven amounted in 1929 to 58,708,571 schillings or 28.5 per cent of the city tax income. To this might well be added the house construction tax on "luxury" apartments and business establishments, defined here as those with an annual rental base of 10,000 pre-war gold crowns or more, although the figure is sometimes set as low as 5,000. In 1929 the house construction tax paid on 3,470 "luxury" tax units aggregated 15,940,791 schillings. This figure added to the proceeds of the seven "luxury" taxes gives a total of 74,649,362 schillings or 36 per cent of the entire city tax receipts.

Other taxes on the rent for rooms in hotels and sanatoria, on improvements on real estate, on billboard, placard and newspaper advertisements, on fire insurance policies, and on wages and salaries (which the employer was prohibited from collecting in whole or in part from his employees) realized in 1929 a total of 103,232,925 schillings. If this sum be added to that of the "luxury" taxes just stated in the preceding paragraph, the result is 177,882,287 schillings or 86.6 per cent of the city tax income.

Another very important source of revenue was that part of the "joint" taxes, collected for the use of the federal state,

[1] *Statistisches Taschenbuch für Wien*, 1930, p. 45.

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states and communities, which was allotted to Vienna. In 1929 this share amounted to 136,341,341 schillings or 66 per cent of the amount raised by purely city taxes.

Finally in this résumé it may be observed that the socialists inherited a practically bankrupt city in May 1919, that by July 1, 1921, the municipal finances were "in the black", that prices charged to patrons of the municipal monopolies were greatly reduced as compared even with pre-war rates, and that after the budget was brought into order in 1921 the credit of the city was always excellent. As was editorially brought out by *Der Oesterreichische Volkswirt*, "the old régime left a financially honorable inheritance." And as had been previously stated, after the February uprising, in an article in the same journal, the "federal accounting office had repeatedly certified that the Social Democratic financial administration was 'clean and proper.'"[2] That these comments are accurate there can be no doubt. Responsible criticism there has been, but it has run along other lines than malfeasance and corruption.

In the spring of 1937 the Schmitz administration published an elaborate report on its first three years' work: *Wien im Aufbau*.[3] That part concerned with finances begins with a vigorous indictment of the preceding administration. This indictment charges that "The former city administration was absolutely and completely focused upon the construction of huge apartment houses. Everything else was shoved into the background." In elaboration it specifies that although the former housing tax brought in considerable sums it was not sufficient for the program planned, that every other available source of revenue was drawn upon for apartment building purposes, that streets and bridges were neglected and that on public buildings and schools only the most urgent upkeep work

[2] *Der Oesterreichische Volkswirt*, vol. 27, p. 85 (Nov. 3, 1934), and vol. 26, p. 756 (May 26, 1934).

[3] This report consists of 17 large pamphlets. The first provides a general survey; the others are concerned with a wide range of topics including municipal finances, the public school system, adult education, the house repair fund, the sewer system, refuge homes for unemployed families, economic undertakings of the city, welfare work and others.

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was done. The indictment charges furthermore that the Breitner system [4] shifted practically the entire tax burden upon a narrow stratum of the population with the results of weakening private enterprise and steadily increasing the number of unemployed—all under the catchword of taxing the rich for the benefit of the poor. The pamphlet also criticizes severely three other specific taxes: on saddle and carriage horses, on household personnel, and on luxury foods and drinks.[5] The second and third of these require some explanation.

The tax on house servants was authorized by an act of the legislature of Lower Austria on August 4, 1920. It applied to the second, third and further servants only, was steeply progressive and distinguished between male and female servants. Rates were changed twice to compensate for the depreciation of the currency and a third time in December 1923 as a matter of tax policy. This third tenfold increase remained effective from January 1, 1924, to January 1, 1934, and set the rates at 50 schillings a year for the second servant, if female, 300 for the third, 550 for the fourth and so on. Taxes on male servants were double those on female. For the two wealthiest families in Austria the computation of taxes in this fashion meant very large payments. In 1928, for example, the household most severely affected paid 291,237 schillings.[6]

The Vienna tax on luxury food and drink articles was also authorized on August 4, 1920. As a matter of fact, the tax was not on champagne, for example, as such because it was considered a luxury article, but was collected at fixed percentages of the amounts paid for foods and drinks served to patrons of "bars, cabarets, varieties, concert cafés, concert restaurants, *Heurigen- und Buschenschenken*, liquor and breakfast rooms, and further in public houses which in the light of the prices asked, the social position of the customers, the equipment,

[4] Hugo Breitner was for many years the finance executive of Vienna.

[5] *Wien im Aufbau: Finanzwesen*, pp. 5, 6.

[6] *Landesgesetzblatt für Niederösterreich*, 1920, Nr. 725; *Landesgesetzblatt für Wien*, 1924, Nr. 5; Danneberg, Robert, *Das neue Wien* (fünfte Auflage 1930), p. 15.

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favorable situation, or comfort offered may be considered as luxury establishments." The tax was also collected in "places subject to the amusements tax" which sold food and drinks. These "places" were primarily legitimate theaters and moving picture theaters.[7] The percentages paid varied in different establishments at the discretion of tax officials. The socialists claimed that this discretion was exercised in the light of the relative luxuriousness of the cafés and other tax objects; their opponents charged that the "discretion" was of a purely arbitrary political character. That there were isolated and exceptional cases of arbitrary and unwarranted classification of an establishment as a "luxury" café or restaurant may be true, but it is at least interesting to note that *Wien im Aufbau* does not repeat this charge in its general or its specific denunciations of the socialist taxes.

With reference to the much more important issue—did the general tax policy of the city of Vienna aggravate the unemployment situation?—the available official figures are of interest. In the following table such figures are presented for

UNEMPLOYED PERSONS IN AUSTRIA AND IN VIENNA[8]

Year	Registered at employment offices			Receiving assistance		
	All of Austria	Vienna (No.)	Vienna (%)	All of Austria	Vienna (No.)	Vienna (%)
1919.....				147,192	111,796	75.95
1920.....				32,217	26,396	81.93
1921.....	32,419	23,567	72.70	12,055	9,551	79.23
1922.....	75,540	50,786	67.23	46,917	30,591	65.20
1923.....	144,974	76,479	52.75	110,352	62,741	56.85
1924.....	126,572	57,152	45.15	95,442	46,574	48.80
1925.....	173,345	85,944	49.58	150,331	72,283	48.08
1926.....	204,388	100,336	49.09	178,937	83,810	46.84
1927.....	203,265	95,970	47.21	173,362	81,073	46.77
1928.....	186,723	82,644	44.26	158,377	68,872	43.49
1929.....	195,570	82,606	42.24	165,551	67,487	40.77
1930.....	244,386	102,254	41.83	207,859	82,718	39.80
1931.....	303,365	125,580	42.13	254,606	96,728	37.99
1932.....	379,285	161,933	42.92	309,642	115,539	37.31
1933.....	405,741	184,742	45.48	331,027	130,817	39.52

[7] *Die Wiener Gemeindeverwaltung*, Heft 1 (Oct. 1923–Sept. 1924), pp. 32-33.

[8] *Wirtschaftsstatistisches Jahrbuch*, 1929/1930, p. 83; 1931/1932, pp. 426, 428, 440; 1932/1933, p. 414; 1933/1935, pp. 399, 406, 407.

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the years 1919-1933, that is, those years in which the socialists controlled the Vienna administration.

During the period covered in the table Vienna contained a fairly constant, but slightly decreasing, percentage of the entire population of Austria (30 to 28). Without doubt then the city had provided more than its share of the total unemployment on this basis of comparison. On the other hand, it had also provided more than its share of the jobs. As Professor Richard von Strigl, director of the state labor office in Vienna, stated, "the group of those engaged as wage and salary workers coincides approximately with the group insured against sickness" because Austria's compulsory sickness insurance system is so comprehensive.[9] For the years 1933 and 1935 almost precisely 38 per cent of those insured against sickness in all of Austria were working in Vienna.[10] Even this correction leaves Vienna in a rather bad light.

Defenders of the Social Democratic administration insist upon a more detailed analysis of the unemployment figures. They point out that Vienna's percentage of the unemployed "receiving assistance" decreased every year from 1920 to 1932 (from 82 to 37) and claim that this would not have been possible if the tax policy had been *aggravating* the unemployment situation. They also point out that though the city's percentage of total unemployed "registered at employment offices" jumped between 1924 and 1925, there is the same steady tendency for this percentage to decrease over the period 1921 to 1931. And to this they add the fact that between 1923 and 1929, during which the greater part of the apartment building program was carried through, the number of registered unemployed in Vienna increased only 8 per cent whereas in Austria outside Vienna it increased 64.9 per cent. During this period the federal government was entirely in the hands

[9] von Strigl, R., "Der Aufbau des österreichischen Arbeitsmarkts", Beilage Nr. 5 zu den *Monatsberichten des Österreichischen Institutes für Konjunkturforschung*, 10 Jahrgang, Heft 6 (June 26, 1936). Professor von Strigl was, of course, making a generalization under the status of the law in 1936.

[10] *Wirtschaftsstatistisches Jahrbuch*, 1936, p. 414. Percentage computed from the figures given there on *Krankenversicherte*.

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of bourgeois parties, the socialists having withdrawn from the coalition in 1920.[11] The weaknesses of such comparisons are obvious. The factors contributing to unemployment in metropolitan Vienna and in the remainder of Austria with its high percentage of agricultural and forestry workers are not at all the same; the influence of governmental endeavors to reduce unemployment is difficult if not impossible to isolate from other influences and factors. Though the socialist argument is not devoid of merit the only possible verdict seems—"not proven". On the other hand, it must be noted that conservative critics made no particular attempt to justify this general charge by detailed analysis; they made the charge and then singled out particular taxes for specific attack. Here then is an opportunity for reaching more positive judgments.

As already stated, the three taxes most severely condemned were those on saddle and carriage horses, on household servants, and on luxury foods and drinks. The first of these represented for private owners an annual burden of $35 or less per animal, obviously not enough to exert any influence upon a person who was financially able to maintain a saddle or carriage horse. And since, at a constant tax rate, the proceeds of the horse tax increased from 56,424 schillings in 1925 to 65,288 in 1928 it seems clear that saddle and harness makers were not adversely affected by the city tax.[12]

Much more important, of course, is the charge that the tax on household domestics has been responsible for a great deal of unemployment. This is not a matter affecting a handful of grooms and leather workers, who might lose work if wealthy owners of saddle horses decided to dispose of their animals; domestics in Vienna are numbered in tens of thousands. Although the statistical data available to the writer on this issue are incomplete, they are decisive. The first and most obvious question is: What happened to the number of Vienna

[11] *Cf.* Pertinax, *Österreich 1934* (Zürich, 1935), p. 24 where 1923 and 1927 are compared to show an increase of unemployment in Vienna of 33 per cent as against 116 per cent in the rest of Austria. Pertinax used figures for the last day of each year, not annual averages.

[12] *Wirtschaftsstatistisches Jahrbuch*, 1925, p. 68; *Statistisches Taschenbuch für Wien*, 1929, p. 45.

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households employing two or more servants? Through censuses of one sort or another and reports connected with this tax, the following figures may be presented.[13]

Year	*Vienna households with 2 or more servants*
1910	15,439
1919	9,138
1920	5,905
1927	6,820
1928	6,584
1929	6,340
1930	5,960

The 1920 figure reflects the results of a special enumeration of September 23 for the purpose of ascertaining how many households would be affected by the tax approved seven weeks earlier. The next available figure shows that after seven years of the tax the number of employers paying it had increased by nearly 1,000. The last figure, from a report of November 1930, shows that after ten years of the tax and a year of depression there were still more employers who had two or more servants than at the time the tax was introduced.

The data on unemployment of house servants, even if available, would not be particularly significant because of the practice of young servant girls of returning to their parents in some Styrian or Carinthian village after losing a place and not finding another in a relatively short time. As already explained, however, it is possible to show employment trends by use of the sickness insurance figures. Without reproducing these data in detail it may be noted that in spite of the tenfold increase in the tax already mentioned the number of servants insured against sickness held steady even when general unemployment in Vienna was increasing tremendously between 1924 and 1926 and maintained this uniformity until the end of 1930.[14]

[13] *Statistische Monatschrift*, third Series, vol. 2, p. 207; *Wirtschaftsstatistisches Jahrbuch*, 1927, p. 442; 1928, p. 438; 1929/1930, p. 494; 1930/1931, p. 447.

[14] *Wirtschaftsstatistisches Jahrbuch*, 1926, p. 165; 1930/1931, pp. 160, 161; 1931/1932, pp. 158, 159; 1932/1933, p. 150.

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When we attempt to get some measure of the effect of the luxury food and drink tax upon the employment of hotel, inn and coffee house workers, we find that the first figures presented in the *Wirtschaftsstatistische Jahrbücher* are for 1924, but we also find that we can trace unemployment among these workers directly. Averages computed from the figures given are presented below.[15]

1924 4406	1928 3769	1932 6661
1925 4544	1929 3449	1933 7737
1926 4668	1930 4071	1934 9468
1927 4024	1931 4969	

A comparison of these averages with the figures on total registered unemployment in Vienna and in Austria presented on page 537 will show that the absolute changes are almost always in the same direction, but that the relative changes do not support the charge that this group was being penalized by the tax. It is particularly important to note that the increase in unemployment among hotel employees between 1933 and 1934 lends no such support. The federal government had abolished the tax as of September 1, 1933. In fact, the more the data are studied, the more obvious are the conclusions that these workers, in most of the years for which statistical evidence is available, were better off than Vienna or Austrian workers in general, and that forces more important than the tax determined the course of unemployment among them.

A second major count in the indictment of the socialist administration is that the one-sided financial policy, with its emphasis on apartment building, led to a progressive deterioration of the condition of city finances. This had been fairly well concealed until 1930 but subsequently was revealed in startling fashion. Since the socialists could not be moved from their obstinate course and since complaints from taxpayers were becoming more vigorous and frequent, the central government felt itself compelled to step in and alter the situa-

[15] *Wirtschaftsstatistisches Jahrbuch*, 1924, pp. 52, 53; 1925, pp. 108, 109; 1926, pp. 456, 457; 1927, pp. 504, 505; 1928, pp. 502-505; 1929/1930, pp. 538, 539; 1930/1931, pp. 476, 477; 1931/1932, p. 429; 1932/1933, p. 417; 1933/1935, pp. 402, 405.

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tion by emergency decrees.[16] By a series of such decrees the federal government altered the rates of some taxes, limited the field of others, and abolished still others.

That the socialist administration spent considerably more for the erection of its big apartment houses than it raised by means of the house-building tax and that it persisted in building houses after the depression set in is easily proved. For the last six years of socialist control the figures in schillings on the first matter follow:[17]

Year	*House-building Tax*	*Investment in Housing*
1928	36,193,553	95,564,461
1929	36,403,379	92,307,657
1930	36,257,648	96,488,495
1931	36,385,365	82,424,895
1932	35,800,000	47,795,160
1933	47,000,000	42,072,400

The record on the construction of community dwellings in the depression years is shown in the table below:[18]

Year	*Apartment Buildings*	*Suburban Cottages*	*Total Number of Dwellings*
1930	49	601	6,575
1931	34	283	6,180
1932	29	277	5,098
1933	13	47	3,625

Without entering into a detailed discussion of the whole matter it may at least be said that there is a very respectable body of competent opinion which would approve rather than condemn this attempt to maintain the building program in a time of depression.

The emergency decrees affecting Vienna taxes provide a really unique chapter in the history of municipal taxation. The first of them was dated March 15, 1933. It announced

[16] Parliamentary government ceased to function in Austria on March 4, 1933, as a result of the resignation of all three presidents of the lower house, the failure of the constitution to provide for any such contingency, and the refusal of the government to take steps to remedy the situation.

[17] Hardy, C. O., *The Housing Program of the City of Vienna* (Washington, 1934), p. 89. The figures for 1932 and 1933 are budget items.

[18] *Ibid.*, p. 57.

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that on a date later to be set the federal government would take over from the city administration the collection of federal taxes within Vienna. According to the statements of the Schmitz régime this cost the city at least 5,000,000 schillings a year and burdened it with the clerks and officials who had formerly done this work.[19]

The second decree, April 12, 1933, abolished the guarantee of a minimum sum to Vienna from the proceeds of certain "joint" taxes for the year 1933. The socialist paper in Vienna charged that this action was in direct violation of a promise made in 1931 to leave untouched until 1935 the terms of the statute regulating the division of taxes. At that time Vienna had suffered a loss of 30,000,000 schillings in its share of taxes and the socialists in parliament had agreed to this reduction only after the promise had been given. The socialist administration estimated that this decree cost it 34,000,000 schillings in 1933. The ministry of finance issued a statement denying the charge that Vienna's share in the "joint" taxes was being reduced, but it is at least interesting to note that the authoritarian régime later estimated that this same decree deprived it of "almost 40 million schillings" in 1934. In fact, had the socialists estimated their losses in the same fashion as did their successors, the loss for 1933 would have been 37,000,000. Nowhere in the ministry's statement and nowhere in the comments or editorials of the quasi-official newspaper, the *Reichspost,* is there any answer to the socialist charge of bad faith.[20]

Number three of these decrees, dated April 21, 1933, relieved theaters operated by the central government, a state or a city from the obligation of collecting and paying an amusement tax levied by a state or a city, when the performances in such theaters served primarily cultural and educational purposes. Which performances were to be exempted was to be decided by the federal minister of education. The

[19] *Wien im Aufbau: Finanzwesen,* p. 7.

[20] *Cf. Arbeiter Zeitung,* Aug. 20, 1933, p. 1; *Wien im Aufbau: Finanzwesen,* p. 7; *Wirtschaftsstatistisches Jahrbuch,* 1933/1935, p. 458; *Reichspost,* April 15, 1933, p. 3, and issues for the next few days.

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fourth decree, April 27, 1933, classified all federal theaters as exempt.

On May 27, 1933, a fifth decree ordered that effective July 1, 1933, the central government would take over the collection of those federal taxes which the city of Vienna had formerly collected.

The sixth of these decrees, June 16, 1933, had the same purpose as the second (abolition of the guarantee of a minimum sum to Vienna from certain "joint" taxes) but was made retroactive to cover the year 1932. The *Arbeiter Zeitung* of August 20, 1933, claimed that this cost the city 19,000,000 schillings and this figure was later officially sanctioned.[21]

The seventh of the series, August 19, 1933, ordered the city to contribute the sum of 36,000,000 schillings for each of the years 1933 and 1934 to help carry the "burdens". Three million schillings were to be paid each month and the payments for the months of 1933 that were already past were declared due at the time the decree went into effect.

Next came a decree of September 6, 1933, abolishing as of September 1 of the same year the tax on luxury foods and drinks.

Number nine, September 22, 1933, exempted the broadcasts of the Austrian radio system from the amusement taxes levied by any state or city.

About a month later, October 27, 1933, penalty assessments of a given percentage to taxes not paid on time to a city or a state were abolished. Interest charges on tax arrears continued to be allowed, but only at the same rate as those collected by the central government.

The eleventh decree of December 1, 1933, regulated in great detail the manner of computing the value of paper crowns and of schillings for the purposes of "increased value" taxes (special assessments). The *Arbeiter Zeitung* argued editorially that the practical effect of the decree was to abolish the Vienna tax of this character.

On the same day the government ordered that effective January 1, 1934, taxes on household servants could not be

[21] *Wirtschaftsstatistisches Jahrbuch*, 1932/1933, p. 78.

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levied on the first, second and third servants, that there could be no difference in rates based on sex, and that for the fourth and subsequent servants the tax could not exceed 150 schillings per person per year.

The thirteenth decree reduced the amusement tax on Vienna moving-picture theaters by 20 per cent. It was passed on December 12, 1933, became effective December 15, and was to go out of force on June 30, 1934.

Nine days later the government altered the law of July 8, 1921, so that Vienna would be compelled to reimburse the federation for 80 per cent of the expenditures it incurred in building and maintaining that part of the federal highways that lay within the city limits. The effective date was January 1, 1934. In general, payment was to be made within the first three months of the budget year following the year in which the expenditures were made, but on demand of the federal state "appropriate advances" were to be made when called for.

On January 26, 1934, the decree of April 21, 1933, was altered to permit the minister of education to declare all or individual performances in privately owned theaters to be cultural and educational. From the day of such declaration said performances were exempt from the amusement taxes of any state or city. This decree was utilized on February 2, 1934, to proclaim as educational and cultural the performances given in the following theaters: *Theater an der Wien, Stadttheater, Deutsches Volkstheater, Theater in der Josefstadt, Raimundtheater, Kammerspiele* and *Scala.* All of these theaters are in Vienna.[22]

The precise amount of the losses suffered by the municipality as a result of these decrees cannot be determined since the depression was also affecting most of the taxes involved, but the major losses are definite. Thirty-six million were lost in the "burdens" contribution, 19,000,000 from the retroactive decree concerning Vienna's share of the "joint" taxes for 1932, and at least another 34,000,000 from that affecting its

[22] *Bundesgesetzblatt*, 1933, Nrs. 63, 132, 146, 160, 203, 239, 380, 409, 433, 485, 528, 529, 540, 580; and *ibid.*, 1934, I Teil, Nrs. 56 and 63 may be consulted for the texts of these decrees.

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1933 share. At a conservative estimate of the results of the other decrees the aggregate loss could not have been less than 95,000,000 and probably ran closer to 100,000,000.[23]

Following the brief "civil war" of February 1934, further changes in the Vienna tax system were brought about. The new administration renounced its legal right under the decrees just discussed to levy a tax on saddle and carriage horses and on servants in excess of three in one household. This action, together with that of the central government concerning the tax on luxury foods and drinks, eliminated these three taxes. In addition, six other taxes were modified—the amusements, unimproved land, placard or billboard announcements and advertisements, betterment, welfare, and housing levies. The fiscal results of these changes are discussed below. At this point it is necessary to focus attention on the revisions affecting the house construction tax because of their economic and social implications.

Since the new administration did not approve of the large apartment houses built by its predecessor, it dropped the specific purpose designation of the old tax. But it did not drop the tax; the "house construction tax" reappeared as the "rent tax". The official *Wien im Aufbau* states that the new scale of rates differed from the old in that "the earlier sharply increasing progression was now essentially moderated." The examples cited are those of an apartment with an annual pre-war rental of 4,001 gold crowns and a business establishment with such a rental of 8,600 gold crowns.[24] On the former the monthly house construction (socialist) tax was 67.22 schillings; under the succeeding régime the rent tax is only 38.19 schillings a month. On the latter the old tax was 144.48, the new, 98.16 schillings per month.[25] Somewhat more detailed figures presented on page 548 show that the old and new taxes remained

[23] *Cf. Der Oesterreichische Volkswirt*, vol. 27, pp. 124, 125 (Nov. 17, 1934), for some detailed figures which support the foregoing judgment. The *Volkswirt*, however, contains no estimate of total losses.

[24] Dating from war-time rent restriction laws all rentals and taxes thereon are computed on these pre-war gold rental values.

[25] *Wien im Aufbau: Finanzwesen*, p. 9.

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identical for cheaper apartments. It is furthermore interesting to note that these cheaper apartments whose rentals were based on a pre-war rental of 3,000 crowns and less comprised at least 90 per cent of all the apartments in the city.[26]

But again it is necessary to examine the changes in more detail. On the same day, June 9, 1934, that the city government revamped the house construction tax it also introduced a garbage collection fee and a water meter fee and increased the charge for water. Under the former administration garbage had been collected from dwellings free of charge and there had been no meter fee. The socialists had also provided 35 liters of water per head per day without cost. The new system reduced the free water allowance to 15 liters per head per day by January 1, 1935. For a family of four the cost of the water previously received without cost would amount to 8.76 schillings per year (20 liters × 365 [days] × 4 [persons] = 29,200 liters; 29,200 ÷ 1000 × 30 groschen = 8.76 schillings). The meter charge was so small that for practical purposes we may simply say that the additional cost of water was 9 schillings a year. This is, as the official *Wien im Aufbau* justly points out, a trifling amount. With reference to the garbage fee the official estimate was that it averaged one schilling per dwelling per month. Viennese acquaintances were practically unanimous in their opinion that this figure was too low, and so after some computations the writer decided that one and one-half schillings was more nearly accurate. The average annual charge, then, was 18 schillings.

During the discussion of the budget for 1936 "the city of Vienna was surprised by the federal law of December 10, 1935," under which the capital was obligated to contribute 8,000,000 schillings yearly to the police expenditures of the state. In order to meet this it was decided to collect each month a one fifth of a groschen tax on each gold crown of pre-war rent. On an annual basis this means 2.4 groschen per crown of rent.[27]

[26] Danneberg, *Das neue Wien*, p. 24.

[27] *Wien im Aufbau: Finanzwesen*, pp. 13, 17.

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TAXES AND FEES RELATING TO HOUSING, 1933 AND 1937

1	2	3	4	5	6	7	8
Rent base in 1914 gold crowns	House construction tax 1933	Rent tax 1937	Fifth of a groschen tax 1937	Additional water fee 1937	Garbage fee 1937	Burden in 1937 (sum of columns 3, 4, 5, 6)	1937 burden as percentage of 1933 burden
300	9	9	7.2	9	18	43.2	480
600	18	18	14.4	9	18	59.4	330
1,200	42	42	28.8	9	18	97.8	233
1,800	90	90	43.2	9	18	160.2	178
2,400	162	162	57.6	9	18	246.6	152
3,000	262.5	258	72	9	18	357	136
3,600	444	378	86.4	9	18	491.4	130
4,000	675	458	96	9	18	581	86
5,000	1,008	658	120	9	18	805	80
6,000	1,210	858	144	9	18	1,029	85
7,000	1,412	1,058	168	9	18	1,253	89
8,000	1,613	1,258	192	9	18	1,477	92
9,000	1,815	1,508	216	9	18	1,751	96
10,000	2,016	1,758	240	9	18	2,025	100
12,000	2,420	2,378	288	9	18	2,693	111
14,000	3,000	2,858	336	9	18	3,221	107
16,000	3,780	3,558	384	9	18	3,969	105
18,000	4,620	4,258	432	9	18	4,717	102
20,000	5,520	5,058	480	9	18	5,565	101
25,000	8,020	7,058	600	9	18	7,685	96
30,000	10,770	9,058	720	9	18	9,805	91
50,000	22,770	17,058	1,200	9	18	18,285	80
100,000	52,770	37,058	2,400	9	18	39,485	75

The items in columns 2 to 7, both inclusive, are annual amounts in schillings.

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It is now possible to summarize in compact tabular form so that comparisons may more easily be made. In making such comparisons it is important to note that the charges for water and for the removal of garbage were administered by the tax office of Vienna and that the citizen of Vienna lumped together the new rent tax, the extra charge for water, the garbage fee and the "fifth of a groschen tax" as a joint replacement of the former house construction tax.

The table reveals that the "sharp progression" of the former tax was "moderated" and it indicates where it was moderated. A comparison of columns 2 and 3 shows that the house construction and rent tax rates are the same, or practically the same, until the rent base of 3,000 gold crowns is passed. As before noted, apartments at this rent base or lower include 90 per cent of those in Vienna. And it is the people who live in these apartments—industrial workers, waiters, street car conductors, clerks, officials in governmental offices, teachers and many professional men—who protest most bitterly against the new taxes and fees: "fifth of a groschen", water and garbage. They agree that individually the items are not great, but declare that in the aggregate the burden is very real and that in its operation the new scale is viciously regressive. The most recent figure on average annual earnings of manual workers in Vienna published by the Vienna Chamber of Labor showed that average to be 2,329 schillings in 1934.[28] For these individuals the aggregate of the taxes and fees was a sum equal approximately to one week's wages instead of about 20 per cent of those wages under the former system.

But further examination of column 8 will also show that for a small group of quite well-to-do tenants, those with basic rents of 10,000 to 20,000 crowns, the introduction of the fifth of a groschen tax eliminated the advantage they had received from the lower rates of the rent tax as compared with those of the house construction tax. The only persons who really gained substantially were the handful of extremely wealthy whose

[28] *Wirtschaftsstatistisches Jahrbuch*, 1936, p. 57. This average was based on a very small sample, but an examinaion of the tables on pages 248 to 281 showing average weekly hours and average hourly earnings leaves no doubt that the average is reliable.

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basic rent was 30,000 crowns or more and the small group whose base ranged between 5,000 and 8,000 crowns.

Within the approximately 90 per cent of Viennese tenants who were adversely affected by the new taxes and fees relating to housing, the bitterest reactions against the new arrangements came from those in the dwellings erected by the socialist administration. Not only were their burdens increased in the fashion set forth; they were now paying an average of at least 70 per cent more in rent.[29] The official explanation of these "adjustments" is that the original rents had been set in an arbitrary and contradictory fashion and that the people of the city had never been able to understand why the tenants of these much more modern dwellings paid less rent than the tenants of old houses, particularly since the people in general had provided the tremendous sums necessary for the new apartments.[30]

With the exception of the "fifth of a groschen" tax brought in by the federal demand of late 1935 for a contribution to police expenses, all of the changes discussed above were introduced in late 1933 or in 1934. Three taxes were abolished and six were modified. The official statistical summary of the results of these efforts toward "lightening and freeing" the tax burdens of the citizens of Vienna in these particular respects shows that the six modified taxes produced 32,000,000 schillings less in 1935 than the nine had in 1933, but in this summary no consideration is taken of the garbage fees or the increased water charges despite the fact already mentioned that both are administered as taxes.[31]

[29] The aggregate rents paid in the community houses in 1933 were 9,361,667 schillings; in 1936 they were 17,135,440. The difference is actually 83 per cent of the 1933 aggregate, but part of the increase is explained by the completion and occupancy of something over 1,000 dwellings in 1934, 1935 and 1936. (Exact figures are not available; the estimate is based on *Wien im Aufbau: Wohnungswesen*, pp. 5-7 where appear figures on the new "garden houses" and "refuge homes" for the unemployed, but none for the dwellings commenced before the change in administration and completed after it.) Since in 1934 the city already owned 63,342 dwellings, the 70 per cent increase in average rents stated above seems conservative.

[30] *Wien im Aufbau: Finanzwesen*, p. 13.

[31] *Ibid.*, p. 12.

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It was frankly stated that, because of the strained budgetary situation of the city, it would be necessary to find some substitute for the lost revenues. The substitutes listed were the reductions in the amount of free water supplied, the water meter fees, the garbage collection fees, and the adjustments in rents on the community houses. No figures on water meter fees are available to the writer, but the aggregate proceeds of the other substitutes were approximately 20,000,000 schillings in 1935.[32] The difference between this and the 32,000,000 loss was more than made up by drawing upon the city gas and electric works for the sum of 25,000,000 schillings. The previous administration had drawn upon these works for 30,000,000 in 1933, and though it had debited the amount to the existing reserves, it had also raised the basic price of gas from 19.38 groschen to 23 groschen per cubic meter and of electricity from 58.1 to 70 groschen per kilowatt hour. In addition it had reduced wages in these municipal monopolies. The reason given for the withdrawal of 1933 from the reserves was the necessity of meeting the levy of the Dollfuss government upon the city in the amount of 36,000,000. It will be recalled that 24,000,000 of this was a retroactive levy. Although the decree assessing the 36,000,000 annual item was in force during the years 1933 and 1934 only, the authoritarian régime drew upon the city enterprises to the extent of 22,628,080 schillings in 1935 and proposed to draw 32,429,000 and 32,315,000 according to the budgets for 1936 and 1937. In 1936, it reduced the price of gas to 21.5 groschen per cubic meter, but did not restore the wage decreases.[33]

Other tax changes in 1935 and 1936 were also affected: a further modification of the billboard advertising tax and a

[32] This item is reached by comparing the total charges for water, and for garbage collection (there had previously been a charge for service to hotels, restaurants, etc.) in Vienna, and for rent in the community houses in 1933 and 1935. The actual result of the computation is 20,311,910 schillings but allowance has been made for the completion and renting of some apartments in the interim.

[33] *Wien im Aufbau: Finanzwesen*, pp. 14 and 27; *Statistisches Handbuch für die Republik* (or *Bundesstaat*) *Österreich*, vol. 15, p. 168, vol. 17, p. 135; *Wien im Aufbau: Wirtschaftliche Unternehmungen*, p. 22.

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revision of the newspaper advertisement tax to reduce each by one third; a reduction, also by one third, of the municipal supplements to the taxes on horse-race betting; the imposition of the "fifth of a groschen" tax on house rents; a reduction in the rates of the welfare tax for the benefit of banks and other financial institutions which had previously paid a higher rate than other business establishments; the exemption of "suburban settlement" dwellings from the rent tax and other modifications of the rent tax to stimulate private building.[34]

Probably for the reason that the controversy concerning it was in full swing at the time *Wien im Aufbau* went to press, there is no mention in that document of a tax on bicycles which the budget committee of the city approved on December 11, 1936. Despite a storm of protest in the labor weekly newspapers the tax became effective June 1, 1937, at a rate of six schillings a year. The estimates on the number of bicycles affected ranged from "well over 200,000" to 220,000.[35]

Finally it should also be noted that under the Schmitz régime the city embarked on a special "work-making" program which resulted in the expenditure of almost 131,000,000 schillings in the years 1934, 1935, 1936 and 1937. In addition the régime computed that the "normal investments" of the city, the maintenance of its buildings, wages paid for snow removal, etc., when added to the special program just mentioned, brought about annual payments of around 125,000,000 schillings to industry and trade directly from the funds of the city and its enterprises. As a result of borrowing on short-time treasury bonds and on long-time mortgages on the community houses the budget makers expected that the municipal debt would show a net increase of a little more than 100,000,000 schillings at the end of 1937.[36] In other words, 77 per cent of the costs of the "work-making" program had been financed on credit.

[34] *Wien im Aufbau: Finanzwesen*, pp. 14 *et seq.*

[35] *Cf. Der Wiener Tag*, Dec. 12, 1936, p. 6, May 14, 1937, p. 5; and issues of *Freie Arbeiter-Stimme, Arbeiter-Woche* and *Österreichische Arbeiter-Zeitung* for two or three weeks following these dates.

[36] *Wien im Aufbau: Finanzwesen*, pp. 19, 20, 23, 24.

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What the citizens of Vienna thought of the tax reforms of the Schmitz régime was very easy to ascertain; the burden of taxes is one thing on which people talk freely in almost any part of the world. The persons questioned included skilled and unskilled laborers, waiters, domestic servants, street car conductors, owners of book shops, grocery stores and barber shops, ushers in theaters, newspaper vendors, teachers of varying rank, lawyers, newspaper men, government employees, and bankers. The answers were so nearly the same that they can be reduced to a single statement. "The Schmitz government collects almost all the taxes that the socialists did, for the ones it did away with it substituted others that are worse, and it does not build any houses." Naturally there were differences in emphasis in the complaints. The most cordially damned changes were those discussed under the general heading of taxes and fees connected with housing. One of the wealthiest men in Vienna who had always opposed the "reds" said that generally speaking taxes in 1937 were definitely worse than under the socialists, but stated that the well-to-do were much better treated under the new régime. A middle-class business man of considerable means expressed the opinion that the tax situation was so intolerable that he would welcome the return of the socialist tax official Breitner. The comments of working people, particularly those who lived in community houses and had had their rents raised, were bitter and profane. With or without justification they firmly believed that the rent increases were a political punishment for their participation in the "civil war" of February 1934. To many of them the bicycle tax seemed the last straw. They pointed out that for tens of thousands the bicycle was an important means of reducing the expense of getting to their work, that for other thousands of unemployed it was the only practical method of getting around to look for jobs, and that for apprentices on very low wages it was almost indispensable.

That there were some exaggerations and downright mistakes in the comments collected the reader probably takes for granted —certainly he should—but that they reflect the overwhelming mass of public opinion is beyond doubt. In this situation the

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impartial observer must ask at least two questions. First, did this mass reaction against the new tax policies rest upon a solid basis of facts, or was it simply another example of the ancient maxim that new (altered) taxes are always worse than old taxes? Did the new system only restore a proper distribution of the tax burdens which the Social Democrats had destroyed by too much "progression" and by too many "luxury" taxes?

As already indicated, the core of the objections to the Schmitz policy from the laborers, clerks, petty officials and small business men was that it had modified the progressive principle of some taxes to throw a larger burden on those less able to pay and had added other levies which were formally uniform but actually regressive in their operation. The argument of these groups was not that the whole burden had been shifted to the poorer classes but that the changes had practically invariably been to the disadvantage of those classes. Understood in this way the answer to the first question just stated is yes; there is a solid foundation of fact for the mass protest against the new system.

The evidence for this conclusion has already been submitted in great part. In supplement the following facts may be noted. The "fifth of a groschen" tax amounted to 80 per cent of the rent tax for the poor whose basic rent was 600 gold crowns or less, and 68 per cent for the clerk and petty official whose basic rent was 1,200 gold crowns; but only 18 per cent for the higher official and reasonably well-to-do business man whose basic rent was 5,000 gold crowns, and only 7 per cent for the tenant in a "luxury" apartment whose basic rent was 50,000 gold crowns. For the desperately poor and many unskilled laborers whose basic rental was 300 gold crowns the additional water charges were 100 per cent of the rent tax and the garbage fees 200 per cent, and even for those on a basic rental of 1,200 gold crowns the percentages were 21 and 42 respectively. In fact, for thousands of Vienna families the annual garbage fees amounted to more than a month's rent. For those living in very good and luxury apartments, the costs of water formerly delivered free and the garbage charges combined represented an infinitesimal percentage of the rent tax. And these water and

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garbage levies plus the increased rents for tenants in community houses were specifically stated to be replacements for the three luxury taxes, assessed on the basis of ability to pay, which the Schmitz régime abolished.

Although the increases in charges for gas and electricity were not strictly speaking taxes, they did provide another example of increasing city revenues by adding further burdens which fall most heavily upon the mass of consumers. In both cases the increases were about 20 per cent per unit of consumption. It is true that the socialist administration introduced both these increases, but it is also true that they were introduced to help meet the retroactive levy of 36,000,000 imposed on the city by the Dollfuss government, that when this levy ceased at the end of 1934 the authoritarian régime maintained the increases and continued to draw for heavy amounts on the municipal monopolies, and that when the central government demanded a contribution for police expenditures this régime immediately introduced the fifth of a groschen tax to cover the contribution.

The brief enumeration of "other tax changes in 1935 and 1936", including the bicycle tax which finally became effective in 1937, shows that the direct beneficiaries in every case but one were more or less well-to-do business groups. The results of "lightening and freeing" the citizens of Vienna of their tax burdens cannot be viewed with satisfaction by anyone who favors assessments in accordance with ability to pay.

An answer to the second question posed above—did the new system only restore a proper distribution of the tax burdens which the Social Democrats had destroyed by too much "progression" and by too many "luxury" taxes?—has already been indicated. The objections to the luxury taxes, particularly to the three most berated, were largely political piffle. Although objections to the steep progressiveness of the house construction tax were more or less justified, the rates of the new rent tax would also be considered "scandalously" progressive by wealthy taxpayers in most countries. But the real point is that one does not restore a balance by taking a load off those most able to pay and dumping it upon those

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least able to do so. One does not remedy an injustice by committing a much greater one.

Another avowed purpose of these changes which was most strongly emphasized was the stimulation of employment. The results have been far from satisfactory. For various reasons the Austrian statistics on unemployment have become progressively more unreliable in recent years, but precisely in these years the data on those paying contributions under the sickness insurance laws have been more and more relied upon as the best test of changes in employment. The average number of such contributors in Vienna, manual and white collar workers, was 469,671 in 1933, 452,924 in 1934, 458,972 in 1935, and 457,400 for the first eleven months of 1936.[37] More recent figures are not available to the writer, but some light is thrown on subsequent developments by an address of Mayor Schmitz on September 11, 1937, in which he pointed out that unemployment had practically disappeared in some localities in Austria because of "rearmament prosperity". Unfortunately, he was compelled to add that since the capital had scarcely any armament industries "we feel practically no trace of this prosperity in Vienna."[38]

The net results of the Schmitz tax policy are clear. It shifted a heavy load upon the poorest citizens of Vienna for the benefit of a handful of middle-class and extremely wealthy; it aggravated the social unrest already severe enough as a result of years of unemployment and the disturbances of 1934; it accomplished nothing in reducing unemployment. The overwhelming majority of Vienna workers remained steadfast in their opposition to the *Krukenkreuz* brand of fascism. It remains to be seen whether they can be won over to the *Hakenkreuz* variety.

[37] *Wirtschaftsstatistisches Jahrbuch*, 1936, p. 441; *Monatsberichte des Österreichischen Institutes für Konjunkturforschung*, vol. 11, Nr. 2, p. 54 (Feb. 1937).

[38] *Freie Arbeiter-Stimme*, Sept. 17, 1937, p. 5.

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CONCEPTS OF TAXABLE INCOME II

THE AMERICAN CONTRIBUTION [1]

BY way of preliminary orientation it may be well to point to some significant differences in the milieu in which American and German contributors to the history of taxable income fashioned their respective concepts.[2] The Germans made their contribution in a slow piecemeal fashion as the nineteenth century wore on. The major American contributions, richer in contrasting design than those of the Germans, were made in less than a quarter of a century. Again, the later Germans developed concepts carefully designed to be part of a tax system which had been built upon the assumption that it was beyond the power of mortal fiscal engineers to devise *one* universal gauge, which could be relied upon to measure ability in accordance with the aims of public policy. Hence, the specifications for their concepts anticipated loads of lesser weight than that to be borne by the definitions of American students. Furthermore, the American contribution differs markedly from that of the Germans by virtue of basic approach. While German contributors, with but few minor exceptions, subscribed to concepts of the accrual type, American students moved in divergent directions. One group, heavily indebted to Professor Seligman, framed definitions in the

[1] This is the second installment of Dr. Wueller's article. Part I was published in the March 1938 issue of the POLITICAL SCIENCE QUARTERLY.—ED. The study has been made possible by a grant from the Columbia University Council for Research in the Social Sciences.

[2] It is taken for granted that the American reader to whom this study is primarily addressed is conversant with the fiscal background of the United States. For descriptive accounts of the development of income taxation in the United States, see Seligman, Edwin R. A., *The Income Tax* (New York, 1911); Ely, R. T., and Finley, J. H., *Taxation in American States and Cities* (New York, 1888); Comstock, A. P., *Taxation in the Modern State* (New York, 1929); National Industrial Conference Board, *State Income Taxes*, 2 vols. (1930).

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accrual tradition. Another group, led by Professor Fisher, subscribed to concepts of income of the disposition type.[3]

Without prejudice to either type of definition, it is proposed to discuss first the contributions of those who developed concepts of the accrual type, because (1) fiscal practice and judicial opinion in the United States have been in accord with this approach, and (2) a definite affinity of thought patterns exists between German and American students who have utilized this approach.

Professor Seligman, it would seem, developed two distinct definitions of income. His first definition is contained in *The Income Tax*,[4] a general treatise dealing with the taxation of income, published in 1911. The second was formulated in connection with the preparation of a monograph which was submitted in a brief to the Supreme Court of the United States [5] and published under the title, "Are Stock Dividends Income?".[6] It will facilitate exposition and understanding if the successive definitions of income are quoted in the order in which they were framed.

Writing in 1911, Professor Seligman was conscious of many of the difficulties implicit in any attempt to define income. Hesitantly, he observes by way of introduction: "In the first place, there is the difficulty of deciding with accuracy what income really means.[7] . . . Furthermore, do we mean by income only money income, or also the equivalent of money income?" [8] After these preliminary observations, the argument proceeds, " . . . income is that which comes to an individual

[3] See Wueller, P. H., "Concepts of Taxable Income I: The German Contribution", POLITICAL SCIENCE QUARTERLY, March 1938, p. 98 and note 61.

[4] Seligman, *op. cit., passim.*

[5] *Eisner v. Macomber*, 252 U. S. 289 (1919).

[6] Seligman, E. R. A., "Are Stock Dividends Income?", in *Studies in Public Finance* (New York, 1925), pp. 98 *et seq.*

[7] This introductory phrase characterizes Professor Seligman's methodological procedure. It would seem to be a generally accepted canon of science that the content of a definition is determined by the purpose of the investigator. Professor Seligman, however, would seem to be of the opinion that concepts can be formulated without even tentative adoption of a purpose.

[8] Seligman, *The Income Tax* (2d ed., New York, 1914), p. 15.

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above all necessary expenses of acquisition,[9] and which is available for his own consumption . . . income . . . denotes that amount of wealth which flows in during a definite period and which is at the disposal of the owner for purposes of consumption, so that in consuming it, his capital remains unimpaired." [10] In the familiar terminology,[11] Professor Seligman's concept as developed so far would seem to represent a combination of the "periodicity" criterion ("category interpretation") and the "preservation-of-source" criterion.

By way of further clarification of his definition, Professor Seligman observes:

> Again, just as, on the one hand, income does not comprise those elements which constitute an impairment of capital, so, on the other hand, income ought not to be conceived of as including those merely temporary[12] elements which constitute an addition to capital. . . . It may therefore be said that income, at least for purposes of taxation, signifies in general money income, with an occasional inclusion of such psychic income as is notorious and easily calculable.[13]

In his essay "Are Stock Dividends Income?",[14] Professor Seligman commences his discussion with a definition of income

[9] In this connection it should be observed that the author apparently abandons the notion formulated by antecedent German writers, that "social status" is a significant determinant of deductible "operating expenses". See Wueller, *loc. cit.*, p. 91. It would seem a reasonable inference that Professor Seligman would define "operating expenses" in terms of (a) physiological or "level of decency" minima, and (b) customary accounting conventions.

[10] Seligman, *The Income Tax*, p. 19.

[11] See Wueller, *loc. cit.*, p. 90 notes 34, 35, and p. 98 note 61.

[12] As will subsequently appear, this passage is of considerable importance as an indication of Professor Seligman's seeming shift of position. In the above passage, he seems to go on record as advocating the inclusion of "capital gains" in his concept of income, provided they are not "merely temporary". (See Wueller, *loc. cit.*, pp. 102 *et seq.*, for Schantz's arguments.) It is immaterial to the argument in hand whether or not it is possible to evolve standards on the basis of which the "merely temporary" character of a given "capital gain" can be determined.

[13] Seligman, *The Income Tax*, pp. 19, 20, 21. It will be observed that the "occasional inclusion" covers *easily calculable*, not *actually calculated*, psychic income.

[14] "Are Stock Dividends Income?", pp. 98 *et seq.*

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which is admittedly more provisional than the concept formulated in *The Income Tax*. As a first approximation, he says:

> The most natural definition of income is all wealth that comes in.[15] This, however, is obviously much too vague. The things that come in are fundamentally utilities and services. We desire things, at bottom, because of their utility. They [the things which come in] can impart this utility only in the shape of pleasurable sensations or satisfactions. These alone constitute true income.[16]

Having disclosed his doctrinal leanings, Professor Seligman offers a definition of income which is considerably more inclusive than any of his previous attempts. Income now becomes "the inflow of satisfactions from services and utilities. Income is . . . fundamentally pleasure or benefit income." Readjusting his broad concept of income to the conventions of a money economy, he proposes the following reformulation: " . . . in a society based on money transactions income denotes any inflow of satisfactions which can be parted with for money. It may not be money income, but it must be capable of being transmuted into money income." [17]

After these preliminary considerations, which do not seem to imply a position different from the one elucidated in *The Income Tax*, the author observes, "Thus far the ordinary analysis has gone.[18] There still remain, however, other criteria of income." [19] The most important, not to say crucial, criterion which is not revealed by "ordinary analysis" would appear to be the "realization test" with its derivative the "separation" criterion.

[15] See Wueller, *loc. cit.*, pp. 104 *et seq.* This first approximation is identical with the Schantz concept.

[16] "Are Stock Dividends Income?", p. 99.

[17] *Ibid.*, p. 99.

[18] Professor Seligman seems to be under the impression that the "ordinary analysis" did not go beyond the formulation of the "periodicity" and "preservation-of-source" criteria. For evidence to the contrary, see Wueller, *loc. cit.*, pp. 91, 93, 95, 98 and 104 note 77.

[19] Seligman, "Are Stock Dividends Income?", p. 100.

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In order to bring the significance of the "realization test" into high relief, Professor Seligman attempts an analogy. He argues: If ". . . the plumber falls ill, if the house is unrented . . . if the foal is stillborn, there is no income to the employer or owner, because nothing is realized." Again, apparently to forestall the possibility of misunderstanding, he points out: "Just as a true satisfaction is realized satisfaction, so true income is realized income.[20]

From these general and preliminary considerations, Professor Seligman deduces what seems to him a proposition of cardinal importance, "Income in the true sense of net income is that which is separated from the capital, while leaving the capital intact." [21] He emphasizes his position by the exclamation: "Realizability is not realization; separability is not separation." [22] It would seem, then, that his concept of income, as elucidated in "Are Stock Dividends Income?", is but the "net accretion" criterion delimited by the "separation" criterion.

Since the "net accretion" criterion has been discussed,[23] the task of analysis may be confined to an appraisal of the justification for delimiting it by the "separation" criterion.

[20] *Ibid.*, p. 101. It will be observed that the "realization test" in the sense in which the author uses the word cannot be considered a "new" criterion. "Realization", in the sense indicated, is necessarily implied whenever one contemplates subscription to a concept of the "accrual" type.

[21] The "separation" criterion, in the above form (probably original and exclusive with Professor Seligman), asserts that for a "realized" gain, that is, a gain calculable and measurable in terms of money, to be income, it must be separated from the capital. On the basis of this criterion, stock dividends are not considered income because, though measurable in terms of money, these gains have not been "separated" from the capital from which they were derived. Of course, it is well known that the stock dividend is typically separated from the "parent stock" in that it is represented by crisp new certificates. As Professor Seligman admits, this physical separation has economic repercussions, because it is accompanied by a decline in the value of the "parent stock". However, on the basis of his "separation" criterion, this physical separation is not "true" separation, because nowhere in the separation process has the realized gain taken the form of money. See "Are Stock Dividends Income?", p. 106.

[22] *Ibid.*, p. 108.

[23] See Wueller, *loc. cit.*, pp. 102 *et seq.*

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In the first place, Professor Seligman's incorporation of the "separation" criterion into his concept of income is inconsistent with his basic doctrinal position, for it would seem reasonable to conclude that he subscribes whole-heartedly to the utility approach.[24] If this conclusion regarding his doctrinal position be granted, his advocacy of the "separation" criterion represents a repudiation of his primary postulates, which assert that income is a flow of satisfactions.[25] In fact, the introduction of the "separation" criterion would be altogether inexplicable,[26] if it were not for the following observation made incidentally in the course of the discussion: "The reason why a mere unrealized [not separated] increase in the value of land does not constitute income is primarily because of the uncertainty as to whether this particular consequence [a future decrease in value] may not happen."[27]

This argument plus the "horse and foal" analogy are apparently the only "reasons" adduced by Professor Seligman in support of his separation test—a criterion which, as has been indicated, is not a logical derivative of his primary orientation. Such justification does not seem defensible.[28] For the mere

[24] "Income is therefore fundamentally pleasure or benefit income." *Cf. supra*, p. 560. "Speaking more broadly, however, it may be said that in a society based on money transactions income denotes any inflow of satisfactions which can be parted with for money. It may not be money income, but it must be capable of being transmuted into money income." Seligman, "Are Stock Dividends Income?", p. 99.

[25] Unless, of course, one is prepared to postulate that "satisfactions", "pleasurable sensations" or "utilities" flow only from the operation commonly referred to as consumption. Such an assertion, however, would seem contrary to observable fact. *Cf.* Clark, J. M., *Social Control of Business* (Chicago, 1926); Taussig, F., *Inventors and Money Makers* (New York, 1915); and Carnegie, A., *Problems of the Day* (New York, 1933).

[26] American courts have more or less consistently subscribed to the "separation" criterion. *Eisner v. Macomber*, 252 U. S. 289 (1919).

[27] Seligman, "Are Stock Dividends Income?", p. 114.

[28] In passing it should be observed that F. R. Fairchild would seem to have adopted the "separation" criterion. See Fairchild, F. R., "Economic Nature of Stock Dividends", *Bulletin of the National Tax Association*, vol. 3 (April 1918), pp. 161 *et seq.* Professor Fairchild points out "income must not be confused with growth of capital", but he fails to demonstrate why, for the purposes under consideration, "growth of capital" is not to be treated as "income".

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fact of separation in no sense removes the uncertainty of value fluctuations.[29] It would seem reasonable to suppose that if mere asset "transmutation" could assure value stability—as Professor Seligman's argument implies—the economic millennium would have been attained immediately after the Supreme Court rendered a verdict in favor of the plaintiff in *Eisner v. Macomber*.[30]

Though Professor Seligman's unique separation criterion was accepted by the Supreme Court of the United States, it failed to meet with universal acclaim. Professor Haig, coincident with the formulation of a concept of income of his own, observed in 1921: "Such decisions as have been handed down appear to be leading toward a definition of income so narrow and artificial as to bring about results which from the economic point of view are certainly eccentric and in certain cases little less than absurd."[31] Again he sounded a note of caution when he expressed the fear that "if the legal concept established by court interpretation under a particular constitutional provision or amendment departs in any very fundamental fashion from the economic concept, injustices may arise of such magnitude as to necessitate either the abandonment of the income tax or the adoption of a constitutional amendment which will give a positive and comprehensive definition of income."[32]

These two passages permit a glimpse of Professor Haig's general position. In addition they serve to indicate the function which he expects a fiscally useful concept of income to

[29] In this connection, Professor Wesley C. Mitchell's comment is instructive, "But the profits [the term "profits" and the term "income" are interchangeable for the purpose in hand] of the enterprise itself are not definite sums fixed by past transactions. On the contrary, they are appraisals of net changes in the position and prospects of the business as a whole—appraisals that look forward to the uncertain future as well as back to the irrevocable past." Mitchell, W. C., in Epstein, R. C., *Industrial Profits in the United States* (New York, 1934), Introduction, p. 4.

[30] 252 U. S. 289 (1919).

[31] Haig, R. M., "The Concept of Income—Economic and Legal Aspects", in *The Federal Income Tax* (New York, 1921), p. 1.

[32] *Ibid.*, p. 15.

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perform. To be acceptable such a concept must be "positive" and "broad" enough not to work injustices of regrettable "magnitude". This represents a clear and realistic statement of social objectives and a striking departure from the ideas of Professor Seligman, whose concepts of income are, in the last analysis, but philological derivatives—without acknowledged social purpose.

Professor Haig believes that if one defines income as the "increase or accretion in one's power to satisfy his wants in a given period in so far as that power consists of (*a*) money itself, or, (*b*) anything susceptible of valuation in terms of money",[33] one has formulated a concept sufficiently broad to serve the ends of public policy.[34] Somewhat more briefly stated, "income is the *money value of the net accretion to one's economic power between two points of time.*" [35] This definition of income, it seems, closely resembles the concept formulated by Schanz.[36] Professor Haig then proceeds to show that his concept, if incorporated into federal statute, would serve the ends of equity more adequately than the prevailing judicial concept which contained the separation criterion.[37]

Though Professor Haig demonstrates convincingly that his concept would produce more equitable results in the sense in which he chooses to define that term, he clearly recognizes that policy and administrative reasons may make it inadvisable to insist upon its rigid and universal application. He makes it explicit that one might justifiably "urge that no tax be placed on a gain arising from the appreciation of a fixed asset until it is actually sold. But the recommendation should not be urged on the ground that the appreciation is not income until it is sold." And again Professor Haig observes, ". . . one

[33] *Ibid.*, p. 7.

[34] It would seem that Professor Haig's concept of income is identical with the net accretion criterion. See Wueller, *loc. cit.*, p. 104.

[35] Haig, *loc. cit.*, p. 7.

[36] Wueller, *loc. cit.*, p. 106.

[37] From the context of the argument it appears that for the purpose in hand "equity" obtains if equally circumstanced individuals are taxed equally. Haig, *loc. cit.*, pp. 8 *et seq.*

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might urge that no tax be placed on the services which one actually enjoys when he lives in his own home rather than a rented one. But, again, that recommendation should not be supported by the assertion that this item is not income." [38]

Though Professor Haig's concept of taxable income is closely akin to that of Schanz, his justification for its postulation is somewhat different. Schanz, it would seem, offered his concept, because upon observation and cogitation he was persuaded that it represented a satisfactory measure of ability and capacity to pay.[39] In the best Hegelian tradition, he maintained that acceptance of the concept by the social group was but secondary. Professor Haig, on the other hand, seems to imply that a useful concept must be an integral part of the mores of the group within whose institutional framework it is to do service. A useful concept, in his opinion, must conform to the basic notions of equity which prevail in the community. Though his departure from the conventional treatment represents a refreshing note of realism, he does not attempt a formal definition of "equity". This absence of definition somewhat detracts from the usefulness of his concept, at least until such time as the missing definition is supplied.

In 1924, Carl C. Plehn, without referring to antecedent efforts, attempted a general definition of income.[40] He decided that " income is essentially wealth available for recurrent con-

[38] *Ibid.*, p. 14.

[39] Recently an attempt has been made to differentiate between "ability to pay" and "capacity to pay". "Capacity to pay" would seem to be measured in terms of dollars at the disposal of a given individual at a point in time or over a period in time. "Ability to pay" would seem to be measured in terms of dollar amounts at the disposal of a given individual *taken in conjunction* with the particular personal circumstances. That is to say, some would claim that though the "capacities" of two persons having incomes of the same magnitude are identical, their "respective abilities" may be different because one has a large family and the other is a bachelor. It should be observed that the above differentiation is based upon a judgment of the investigator regarding the urgency or desirability of wants of different order. Aware of the element of subjective judgment underlying the differentiation, neither Schanz nor Haig apparently worked with it.

[40] Plehn, C. C., "The Concept of Income, as Recurrent, Consumable Receipts", in *The American Economic Review*, vol. XIV (March 1924), pp. 1 *et seq.*

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sumption, recurrently (or periodically) received. Its three essential characteristics are: *receipt, recurrence, and expendability*. It is wealth looked at primarily from the point of view of time." [41] Cast into the standard terminology, the constituent parts of Plehn's concept of income are the "realization",[42] "periodicity" and "preservation-of-source" criteria. Elaborating further upon the "periodicity" criterion, Plehn remarks:

> That recurrence, more often expressed as regularity, is an essential feature of income has been pointed out by many writers. But most of them express it by saying that income is a "flow of wealth," a metaphor which involves serious logical difficulties and overstresses the idea of regularity or continuity. As I use it here, recurrence does not necessarily imply regularity, nor of course irregularity, but merely periodicity.[43]

To avoid logical difficulties, Plehn suggests: "The things which constitute *your* or *my* income are not income at all, when considered as severed from the relationship to *you* or to *me* which the term income implies." [44]

Turning from "periodicity" to an elaboration of "spendability" ("preservation-of-source" criterion), Plehn points out that

[41] *Ibid.*, p. 5.

[42] Professor Plehn uses the term "realization" in a rather broad sense. For him, "realization" is present—subject, of course, to the limitations imposed by the "periodicity" and "preservation-of-source" criteria—whenever wealth accrues to an individual economy. When used in this broad sense, "realization" is implied wherever and whenever a concept of the "accrual" type is adopted. *Supra*, pp. 561 *et seq.*

[43] Plehn, *loc. cit.*, p. 5. The present writer begs to differ with Professor Plehn regarding the seriousness of the "logical difficulties" to which the use of the metaphor "flow of wealth" tends to give rise. The German writers took pains to clarify it by supplementing it with the term *Periodizitaet* (periodicity). See Wueller, *loc. cit.*

[44] Plehn, *loc. cit.*, p. 7. It should be noted that Plehn's observation is not "new". The German writers had the same things in mind whenever they pointed out that "income" in contradistinction to "receipts" must be considered a "subjective category". See Wueller, *loc. cit.*, p. 90; Heckel, M. v, *Die Einkommensteuer und die Schuldzinsen* (Leipzig, 1890), *passim*.

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> By the term spendable, it may be well to explain, is meant that they [referring to receipts] may be used to live on without direct impairment of one's anticipated or expected future income. That is, spending may not interfere with recurrence. . . . Yet this alone [referring to recurrence] is not conclusive. Treasure trove, a gift of capital, an inheritance are all likewise spendable receipts. That is they may be spent without impairment of anticipated future income from sources available before they were received. But, of course, it is not considered wise to spend these, unless they are small, but to treat them as continuing or as capital, using only the income therefrom for spending.[45]

Pushing the analysis of accruals of doubtful income status further, Plehn observes that

> An isolated fee, an honorarium, or a prize received on some rare occasion is something about the classification of which as income there is always a doubt despite the fact that it is a spendable receipt.[46] The doubt apparently arises by reason of the absence of anticipated recurrence.[47] Recurrence then is characteristic number three. It is moreover a characteristic inextricably interwoven with the other two . . . gains and profits from transactions outside of one's regular vocation or line of business,[48] like the profit from the sale of a house, are of doubtful income character.[49]

As regards the accruals which separately and in combination partake of the nature of income, Plehn notes that

[45] Plehn fails to furnish a standard by reference to which "smallness" may be ascertained. Obviously an accrual of a given numerical magnitude, of the type indicated, may be "small" or "large" depending upon the point of reference. Plehn, *loc. cit.*, p. 9.

[46] Inasmuch as Plehn apparently holds that spendability is a function of the magnitude of the accruals (gifts, inheritances, etc.), it is difficult to see why he should now take it for granted that "isolated fees" are spendable *per se*.

[47] This passage makes it clear that Plehn operates with the "recipient interpretation" of the "periodicity" criterion. Adoption of the "category interpretation" would eliminate the difficulties. See Wueller, *loc. cit.*, p. 90 note 34.

[48] Plehn fails to indicate how "lines of business" may be defined. It appears that the business man's vocation is profit making; "lines" are but incidental and may be changed to serve the acquisitive end.

[49] Plehn, *loc. cit.*, pp. 9-10.

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> Common usage, furthermore, requires that each of these items shall be considered as income only to the extent that it is net. . . . Without going into details I wish here to direct attention to the interesting fact that the only permissible deductions from gross receipts are those which Quesnay so illuminatingly called the "advances necessary to obtain revenue" and that these must be recurrent.[50] Thus if a wage-earner's house burns down or his automobile is wrecked, he does not consider that his income has thereby been reduced.[51]

Though Professor Plehn hesitates to present a definite concept, the tenor and emphasis of his discussion would seem to present an endorsement of the periodicity test delimited by the preservation-of-source criterion. It should be observed, however, that some of his dicta cannot be deduced from either standard. For instance, why should the unfortunate wage-earner not be permitted to consider the loss of his house by fire as an income loss? A wage-earner who chose to run his affairs in terms of accrual conventions of accounting, which are at least as justifiable as the cash convention of the art of bookkeeping, would certainly be inclined and at liberty to treat the loss of his house as an income loss.

William W. Hewett, who addressed himself in 1925 to the problem of defining income, was apparently fully aware of the contributions of his American predecessors. He tentatively selects the contents of his concept of income, when he writes: "Money is not desired for itself, but for what it will buy in the markets of the world. . . . The *real income* consists of those commodities and services that will satisfy the wants of men. Money income is sought after, that real income may be obtained and enjoyed."[52]

[50] It should be observed that recurrency is not necessarily implied in Quesnay's dictum. All that would seem implied is a causal or associative nexus between a given loss and a given income generating process.

[51] Plehn, *loc. cit.*, p. 11.

[52] Hewett, W. W., *The Definition of Income and Its Application in Federal Taxation* (Philadelphia, 1925), p. 11. The statement is likely to lead to serious error. In a society like ours in which successful acquisition is considered a good, the accrual of "money" must be conceived of as a good *per se*. *Cf.* Knight, F. H., "Economic Psychology and the Value Problem", in *The*

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After these preliminary observations, Hewett turns to one of the basic problems raised by Fisher's concept and inquires:

> Are new savings of wealth received to be treated as income? Under the satisfaction concept [53] the answer is obviously in the negative, since the very nature of saving is the *giving up* of present satisfactions that *future* satisfactions may be secured.[54] But under the definition of income as a flow of commodities and services through a period of time, an affirmative answer must be given, because goods that *come in* are income, regardless of the manner in which they are disposed of.[55]

Referring to his preliminary remarks, Hewett formally reshapes his concept as follows: "*Net individual income is the flow of commodities and services accruing to an individual through a period of time and available for disposition after deducting the necessary cost of acquisition.*" [56] In other words, his concept of income is identical with the "net accretion" criterion. As regards the applicability of this concept, Hewett states:

> In applications of the concept to specific problems, the test necessary to decide whether a given item is income to the individual or not, must be the question: Does it add to his control

Quarterly Journal of Economics, vol. 34 (1925), pp. 372 *et seq.* The following passage from Pigou, it would seem, indicates that he, too, is predisposed to accept this view: "Income-utility functions conceived of in these two ways are different from one another; for the reason that the satisfaction which a man derives from the possession of a given income depends, not only on the absolute amount of the income, but also on the relation subsisting between it and the incomes of other people . . . for large incomes the proportion of the satisfaction-yield which is due to their *relative* magnitude is certainly high." Pigou, A. C., *A Study in Public Finance* (London, 1928), pp. 111 *et seq.*

[53] Hewett throughout equates "service concept" and "Fisher concept".

[54] Hewett implicitly accepts Fisher's reasoning, which in the opinion of the present writer is based upon doctrinal confusion. In passing it may be observed that the confusion in question—regardless of specific doctrinal position—is likely to arise whenever it is asserted that men set out to make money in order to secure food, lodging and clothing (usually referred to as "goods and services"). It does not require labored demonstration to show that such an assertion—though dignified by the label "theory"—fails to explain universally observable accumulation *in excess* of biological requirement.

[55] Hewett, *op. cit.*, p. 14.

[56] *Ibid.*, pp. 22-23.

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over part of the social income?[57] If the individual has gained in control over part of the social income, the item must be included as part of his personal income.[58]

Lest he be misunderstood regarding a possible "necessary" relation between individual and social net income, Hewett points out that "Capital gains caused by increasing scarcity values are income to the individual, but not to society,[59] since they constitute merely a transfer of title to wealth when viewed socially."[60] In agreement with Haig and Plehn, but contrary to Seligman, he holds that separation is, in no sense, a necessary or inevitable income criterion.[61]

Unlike his American and German predecessors, Henry C. Simons[62] prefaces his attempts at formulation of a concept of taxable income by a concise statement concerning the primary purpose which his concept is to serve. Given the need for reallocation of resources by means of taxation, he posits that it is the function of a concept of taxable income to facilitate the "mitigating" of "inequality".[63] Then, assuming this objective, he suggests a concept of taxable income, which in

[57] Hewett would seem to subscribe explicitly to Alfred Marshall's definition of "social income", for, paraphrasing Marshall, he observes: "*Net social income may then be defined as the total flow of commodities and services, through a given period of time, available for distribution after maintaining the industrial equipment intact.*" Hewett, *op. cit.*, p. 19.

[58] Hewett, *op. cit.*, p. 23.

[59] In the light of this contention it is difficult to see why Professor Hewett should deem it necessary to introduce the concept of social net income at all. The "net accretion" criterion in the form submitted by Schanz (see Wueller, *loc. cit.*, pp. 104 and 106) appears to be adequate. In addition it should be noted that all values and value changes are functions of scarcity or scarcity changes. In the absence of the scarcity factor, values—in the economic sense—cease to be. *Cf.* Cassel, G., *Theory of Social Economy* (Oxford, 1932), *passim.*

[60] Hewett, *op. cit.*, p. 35.

[61] Hewett is fully aware that his concept of income ("net accretion" criterion) is not identical with the concept reflected by judicial opinion. American jurists, according to Hewett, insist that an accrual in order to be income must (1) be "separated" and (2) have grown out of the productive process. (See Hewett, *op. cit.*, pp. 52, 60 *et seq.*) In other words, according to Hewett, American judges cling to the "separation" and "productivity" criteria.

[62] Simons, H. C., *Personal Income Taxation* (Chicago, 1938), *passim.*

[63] *Ibid.*, pp. v *et seq.*

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general contour closely resembles the concepts advanced by Haig and Schanz. Unlike Schanz, however, Simons proposes to lump together all accruals (income as defined in accordance with the periodicity criterion, inheritances, capital gains, windfall gains, lottery winnings, etc.) which occur over a specified period of time and to tax their sum under one levy, the personal income tax. In other words, while Simons seems to be in agreement with Schanz regarding the basic concept of ability or capacity to pay, he differs with him concerning the fiscal technique by means of which that capacity is to be exploited.[64]

By way of comment it may be observed that the desirability of employing Simons' technique may be questioned, because, though windfall gains and inheritances represent capacity components, their typical behavior in relation to specific individuals differs markedly from that of income as defined by reference to the periodicity criterion.[65]

Though American fiscal practice has always been patterned after concepts of income of the accrual type, there have been suggestions [66] that a concept of income of the disposition type be substituted in lieu of contemporary procedure. All these suggestions and proposals regarding the desirability of a reorientation of basic thought regarding tax practice hark back to Professor Irving Fisher's concept of income. Hence, an examination of his position is essential.

In order to understand Fisher's doctrinal position in general, and his concept of income in particular, it is proposed to scrutin-

[64] In Simons' language: "Personal income may be defined as the algebraic sum of (1) the market value of rights exercised in consumption, and (2) the change in the value of the store of property rights between the beginning and the end of the period in question." Simons, *op. cit.*, p. 50.

[65] For a fuller discussion see Wueller, P. H., in POLITICAL SCIENCE QUARTERLY, Sept. 1938, p. 428.

[66] *Cf.* Canning, J. B., and Nelson, E. G., "Budget Balancing and Economic Stabilization", in *The American Economic Review*, vol. 24, March 1934, pp. 26 *et seq.* It should be observed that the proposal of Canning and Nelson stands and falls with Fisher's concept of income. In addition to the agitation for a change of procedure there has been, temporarily at least, a *de facto* shift of emphasis from the taxation of income, in the accrual sense, to the taxation of sales, which, of course, represents a move in the direction indicated by Fisher. *Cf.* Haig, R. M., and Shoup, C., *The Sales Tax in the American States* (New York, 1934), pp. 1-60.

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ize the passages in his works which bear upon the problem in hand. Such a procedure seems preferable to a mere restatement of his concept, because restatement, after all, involves abstraction and selection; and neither operation can be divorced from the personal bias of the investigator.

To the present writer, the following passages typify Fisher's approach and represent the essence of his concept of income:

> Income is a series of events. According to the modern theory of relativity the elemental reality is not matter, electricity, space, time, life or mind, but events.[67]
>
> It is these events—the psychic experiences of the individual mind—which constitute ultimate income for that individual (p. 4).
>
> Enjoyment income is a psychological entity. . . . We can approximate it indirectly, however, by going one step back of it to what is called real income. . . . Real income includes the shelter of a house, the music of a victrola or radio. . . . These outer events, such as the use of food . . . are like the resultant inner events in not being very easily measured (p. 5).
>
> Enjoyment income, real income, and the cost of living are merely three different stages of income. All three run closely parallel to each other, although they are not exactly synchronous in time. These discrepancies . . . are negligible as between real and enjoyment income (p. 7).[68]
>
> To spend is to pay money for enjoyments which come very soon. To invest is to pay money for enjoyments which are deferred to a later time (p. 9).
>
> There is an eternal conflict between the impulse to spend and the impulse to invest (p. 29).
>
> Money income includes all money *received* which is not obviously, and in the nature of the case, to be devoted to reinvestment—or, as the expression is, "earmarked" for reinvestment. In other words, all money received and readily available and intended to be used for spending is money income (p. 10).

[67] Fisher, I., *The Theory of Interest as Determined by Impatience to Spend Income and Opportunity to Invest It* (New York, 1930), p. 3.

[68] Strictly speaking this statement is true only if one assumes that the marginal utility of the dollar is the same for all income recipients. *Cf.* Marshall, A., *op. cit.*, Book V; also Davenport, H. J., *The Economics of Alfred Marshall* (New York, 1935), p. 70.

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> Capital gains, as already implied, are merely capitalization of future income. They are never present income. . . . We shall always find that only the income actually detached from, or given off for enjoyment by, that group, as in cutting coupons from a bond, will result from the summation of the accountant, who will never record as income the increase or decrease in the capital itself (pp. 25-26).
>
> Likewise, if my savings bank account gains by compound interest, there is no income but only an accretion of capital (p. 26).
>
> Savings [plus] real income . . . equal total gain. . . . The two parts of this total—enjoyed income and accumulation of capital or capitalized future enjoyments—are unlike. The only argument for adding them together is that the recipient *could* use the savings as income and still keep his capital unchanged. Yes, he *could,* but he didn't, otherwise there would be no savings (p. 27-28).
>
> Enjoyment income . . . is never savings or increase of capital (p. 28).
>
> But what are services? . . . The services of an article of wealth are the desirable changes effected (or the undesirable changes prevented) by means of that article.[69]
>
> But they [total gain and enjoyment income] are so widely different in nature that to call them both income is likely to obscure their difference. . . .[70]
>
> Evidently the tax [Fisher is referring to the federal income tax], to be just, should be levied not according to what he [an individual] *might* do but what he *does* do . . . the whole present method of collecting our income tax . . . disregards the reinvestment entirely while investments left to slumber go untaxed.[71]

It seems apparent that Fisher proposes a concept of income of the "disposition" type, or more specifically, that his con-

[69] Fisher, *The Income Concept in the Light of Experience*, originally published as part of the Wieser Festschrift, *Die Wirtschaftstheorie der Gegenwart* (Wien, 1927), vol. 3. Translated into English and privately printed in 1928. The present quotation (p. 3) and subsequent references are to the privately printed edition. For a convenient algebraic summary of Fisher's position see: Fisher, I., "Income in Theory and Income Taxation in Practice", in *Econometrica*, vol. 5, January 1937, p. 1.

[70] Fisher, *The Income Concept in the Light of Experience*, p. 27.

[71] *Ibid.*, p. 21.

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cept of income is identical with the "consumption" criterion.[72] It might facilitate appraisal of his concept of income to investigate first his doctrinal position. The previously quoted passages seem to indicate that he considers his definition of income a derivative of that type of economic theory which is usually referred to as utility mechanics.[73]

It has been one of the principal tenets of the exponents of marginal utility economics from Gossen to von Wieser, that each person so distributes his resources as to render the enjoyments of the final increments of commodities—acquired at an instant in time—equally pleasurable.[74] To quote Jevons: "It is the inevitable tendency of human nature to choose that course which appears to offer the greatest advantage at the moment. Hence, when the person remains satisfied with the distribution [of resources] he has made, it follows that no alteration would yield him more pleasure".[75]

If it be granted that Professor Fisher's general orientation is that of a marginal utility economist,[76] then it would seem to

[72] The proponents of the "consumption" criterion assert that income is identical with gratification and that gratification may be conveniently measured by an individual's consumption expenditures. *Cf. supra*, p. 572. The "current" expenditure for such durable goods, as a house, for example, is apparently to be ascertained by dividing the purchase price of the good by the pertinent time units.

[73] In substantiation of this contention, compare Professor Fisher's statement: "It is . . . the psychic experiences of the individual mind . . . which constitute ultimate income for that individual." *Cf. supra*, pp. 572 *et seq.* Also, Mitchell, W. C., "The Role of Money in Economic Theory", in *The American Economic Review*, vol. VI, supplement (March 1916), pp. 140-161.

[74] It should be recalled in this connection that for Fisher, quite consistent with his general approach, the terms "commodity" and "service" are freely interchangeable. "The services of an article of wealth are the desirable changes effected." *Cf. supra*, p. 573.

[75] Jevons, W. S., *Theory of Political Economy* (4th ed., London, 1924), p. 59. Incidentally, it should be observed that the principle that all pleasures are equated at the margin was already clearly recognized and stated by the philosophical precursors of the economists of the marginal utility school. Bain, for example, noted that "the foretaste of pleasure is pleasure begun". Bain, E., *The Emotions and the Will* (1st ed.), p. 74.

[76] If one has qualms regarding the validity of the contention that Professor Fisher identifies himself with the utility economists, it is suggested that one compare the following two statements: (1) "By a commodity we shall under-

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follow that his concept of income is inconsistent with his general doctrinal position. That "position" permits the statement, "there is an eternal conflict between the impulse to spend and the impulse to invest"; but on the basis of the same position an "eternal conflict" exists between spending a given number of dollars for a theatre ticket and spending the same dollars for a book.[77] In other words, a marginalist cannot consistently hold that the presence of the element of conflict differentiates "savings" from other spendings, because conflict characterizes the allocation of purchasing power among *all* possible modes of expenditure, including "savings."[78] If

stand any object, substance, action or service which can afford pleasure or ward off pain." (*Cf.* Jevons, *op. cit.*, p. 38.) And (2) "The services of an article of wealth are the desirable changes effected (or the undesirable changes prevented). . . ." Also, Mitchell, W. C., "The Role of Money in Economic Theory", and Veblen, T., "Fisher's Capital and Income", in POLITICAL SCIENCE QUARTERLY, March 1908, pp. 112 *et seq.*

[77] In connection with this apparent fallacy in Professor Fisher's reasoning, the present writer ventures the suggestion that Professor Fisher fell into error because he attempted to combine the marginal approach with Senior's abstinence theory of interest. Senior, it would seem, clearly indicates his position when he writes: "A carpenter's tools are among the simplest that occur to us. But what a sacrifice of present enjoyment must have been undergone by the capitalist who first opened the mine of which the carpenter's nail and hammer are the product!" Senior, N. W., *An Outline of the Science of Political Economy* (5th ed., London, 1863), pp. 58 *et seq.* It does not require labored argument to show that Senior's and Jevons' positions are mutually exclusive. One has to choose one or the other! For some interesting comments regarding the validity and applicability of Senior's theory, see LaSalle, F., *Kapital und Arbeit* (Berlin, 1864), p. 110. For substantiation of LaSalle's contention, see Boehm-Bawerk, E. v., *Capital and Interest* (London, 1919), p. 277. For a concise exposition of the theory, see Knight, F. H., "Interest", in *The Encyclopedia of the Social Sciences*, Seligman, E. R. A. (editor) (New York, 1932), vol. 8, pp. 131 *et seq.*

[78] Inasmuch as the point raised above is crucial in connection with the appraisal of the Fisher concept, the dictum of the "dean of analytical economics" (*cf.* Knight's review of Pigou's "Economics of Stationary States" in *The American Economic Review*, September 1936, pp. 1 *et seq.*) regarding savings should be of interest. Professor Pigou reasons: "Before the argument can proceed, it is necessary further that we agree upon the way in which income that is not consumed, but is saved and invested, shall be regarded. In order that an equal sacrifice formula may be *possible*, people in each separately definable category (*e.g.* bachelors) who have equal incomes must save equal amounts. . . . It means that of any income x, belonging to persons in a given

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these considerations are permitted to stand, Fisher's concept of taxable income is without benefit of doctrine and must be justified by reference to other *desiderata*.

Professor Fisher himself hastens to supply these *desiderata* when he writes:

> Suppose that in a given year a man receives an income of two hundred thousand dollars from stocks and bonds and reinvests one hundred and fifty thousand dollars in real estate. What is his income? Is it two hundred thousand or fifty thousand? The answer is both. It depends on what total, subtotal or net total we want. The income from stocks and bonds alone is $200,000, a subtotal. The income from stocks, bonds and real estate is $50,000, a net total. Critics say popular usage justifies the calling of $50,000, income. That is true as far as it goes. While popular usage is not always free from vagueness, popular practice is not necessarily inconsistent . . . if the property of the individual were managed by a trustee, or a corporation, and the $150,000 never passed through the individual's hands at all but was reinvested by the trustee or within the company, popular usage would generally designate the man's income received from that trustee or company only as $50,000 . . . here popular usage conforms absolutely with true accounting and with the concept above set forth.[79]

category, f(x) is always saved and (x–f[x]) always consumed. On this basis it is open to us to do either of two things. On the one hand, we can accept the fact that saved income does not yield any satisfaction to the saver . . . and, therefore, that such part of taxation as is paid out of what would have been savings involves directly no sacrifice. On the other hand, we can adopt a convention under which each unit of saved income is conceived of as yielding now 'virtual satisfaction', derived from the actual satisfactions which are looked for from it in the future and measured by the saver's desire for it. That is to say, if I desire to save a hundredth £ as much as I desire to spend a fiftieth £ on clothes, I am, on this convention, said to obtain equal satisfactions from saving a hundredth £ and from spending a fiftieth £ in that manner." Pigou, *A Study in Public Finance*, p. 105. It would seem that neither interpretation tends to support the Fisher concept. Incidentally, it should be observed that Professor Pigou is inclined toward accepting the second interpretation so far as his general approach is concerned. *Cf.* the following statement: "For the satisfaction obtained from the marginal unit of work devoted to any one use is equal to that obtained from the marginal unit devoted to any other". Pigou, *op. cit.*, pp. 123-124.

[79] Fisher, *The Income Concept in the Light of Experience*, p. 8.

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The above passage, taken in conjunction with previous quotations seems to warrant the inference that: (1) Professor Fisher in his attempt to justify and substantiate his concept of income shifts the emphasis from the psychological to the accounting approach; (2) operating with accounting conventions, he agrees that at least two quotients of different magnitude may accurately measure the income of a given individual over a given period of time; (3) he quite candidly admits that the "best" answer to the problem is after all a function of "what we want".

"What we want" for fiscal purposes is a proximate measure of ability.[80] For reasons previously elaborated, Fisher's concept of income, though of considerable importance in the light of subsequent thought and policy developments,[81] does not seem to meet the requirements which must be insisted upon if an individual's ability is to be measured as adequately as available technique will permit. Though the evidence seems to indicate that what the originators of fiscal legislation, as representatives of the social group, "want" is a measure of "total gain", rather than the measurement of "income", Professor Fisher asserts that if "total gain", that is "income spent" plus "income saved", is made the basis of income taxation, the savings use of income is being penalized.[82]

This contention may under certain assumptions be true as has been pointed out by Pigou.[83] It must be assumed: (1) that the rate at which "total gain", to use Fisher's terminology, is taxed remains constant or increases with the passage of time; (2) that the rate at which expenditures are taxed is constant or increases with the passage of time. It is not necessarily true, if other assumptions regarding the probable future trend of the rates at which expenditures and "total

[80] See Wueller, "*Concepts of Taxable Income* I", p. 96.

[81] In passing it should be noted that in addition to whatever influence Fisher's contribution had upon American students and American developments, it became the point of departure for many Italian economists.

[82] Fisher, "Income in Theory and Income Taxation in Practice", in *Econometrica*, vol. 5, January 1937, p. 47.

[83] Pigou, *op. cit.*, pp. 135 *et seq.*

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gain" are likely to be taxed are made. For instance, it is not true if it is assumed that both, tax rates on "spendings" as well as tax rates on "total gain", will decline in the future.[84]

Though future tax rates of both "spendings" and "total gain" are unknowns, it may be asked whether or not less favorable treatment of the "savings use" of purchasing power is justifiable. The answer to this question seems to hinge upon one's conception of equity and possibly one's preconceptions regarding the rôle of savings as a determinant of economic progress. Though these two sets of considerations are interrelated, for the sake of argument and exposition, they may be kept separate.

As regards the question of equity, it must be assumed that the legislature in a democratic country is the only agent capable of expressing authoritatively the social group's conception of equity. Acting in the capacity of official spokesmen for the group, legislators have provided that "earned income" is to be given preferential fiscal treatment as compared with "in-

[84] Regarding this point the following observations of Dr. Graves seem pertinent: "According to Professor Fisher 'when a salaried man pays a tax this year on his whole salary, including what he saves and invests, and in future years pays taxes on the income then coming in from this year's savings, he is the victim of double taxation'. [*Cf.* Fisher, "Income in Theory and Income Taxation in Practice", p. 47.] By 'double taxation' Professor Fisher means that the present value of the tax on the income from savings *equals* the income tax paid on that fraction of a given income which was originally devoted to savings purposes. In other words Professor Fisher claims that if a given person receives in a given year an income of (say) $1,000 and if out of that income he saves and invests $100, the present value of the future income tax payments due on the interest from the $100 saved will *equal* the tax due on the $100 for the year during which it accrued as income, or to use Professor Fisher's own terminology, for the year during which it accrued as 'total gain'. Professor Fisher's contention is true only if it is assumed that (a) the capital saved will never be spent, and (b) that the income tax rate, in Professor Fisher's terminology, the rate of the tax on 'total gain' remains constant in time. However, it can be demonstrated that, if it be assumed that (a) either the tax rate on 'total gain' declines with the passage of time, or, (b) the capital sum saved will be dissipated at some future date, the present value of the successive tax payments due on the income from the savings will be *less* than the tax imposed upon the savings at the time when they accrued to a given individual as part of his 'total gain'." From "The Logical Possibilities of Some of the Assumptions Underlying Irving Fisher's Concept of Taxable Income", an unpublished paper by Dr. Clyde H. Graves.

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vestment income". It is difficult to see on what grounds legislators could be denied the privilege of imposing a heavier tax upon such fraction of a person's "total gain" as is saved. To deny the duly accredited legislator that privilege simply implies that one's conception of equity is at variance with the prevailing mores. Such a difference of preference, however, is not arguable, because in the final analysis it is merely based on a difference of taste.

However, the case for tax exemption of that part of "total gain" which is represented by savings might conceivably be strengthened, if it could be demonstrated that in translating the social group's definition of equity into fiscal statute, the legislature tended to impair economic progress. In other words, the case for exempting savings from the income tax would be considerably reinforced if it could be shown that the prevailing conception of equity, as translated into fiscal statute, is at variance with the long-run interest of the community. As regards the matter in hand, such variance implies that one is prepared to assert that saving is a social good *per se*. This proposition, while often promulgated, has never been demonstrated. In fact, of late, the opinion seems to have gained ground [85] that the rôle of savings is but a function of the prevailing "pattern of progress". It has likewise been shown [86] that various patterns of progress are conceptually possible and some evidence has been submitted tending to indicate that actually observable patterns of progress vary in design and structure with the passage of time.

Since the rôle of savings as a determinant of economic progress is debatable it would seem that Professor Fisher's insistence that savings be exempted from contemporary income taxation is not well founded.

On the basis of the evidence submitted above, his concept does not seem to fit smoothly into the American milieu. That, however, gives no clue to its possible adequacy in an economic, social and cultural setting of a different type. Many Italian

[85] Colm, G., and Lehmann, F., "Economic Consequences of Recent American Tax Policy", in *Social Research*, Supplement I, 1938, pp. 3 *et seq.*

[86] *Ibid.*

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economists, for instance, have indicated that Fisher's concept of taxable income fits the conditions of their country admirably.

Before proceeding to the presentation and discussion of the contribution of the Italian writers,[87] it may be well to contrast briefly the American and German contributions. In the first place, the contributions of the American writers, like those of the Germans, are normative rather than analytical. The fact that the discussions of virtually all students so far presented proceed by dictum, rather than by analysis, should not be regarded as an indictment. However, it seems legitimate to attempt to set the fruits of the quest for norms, proffered by professional students, against discernible social objectives. Traditionally, the avowed social objective of taxation, in what is now the United States of America, has been the raising of revenue in accordance with the "respective abilities" of "diverse" taxpayers. The first federal income tax and its miscellany of successors represent a ceaseless search for a technique that would help raise this basic principle above the plane of mere rhetoric. In other words, the problem posed by the taxation of income does not call for a definition of income based upon one's doctrinal bias and an assortment of accounting conventions, developed in response to situations which are irrelevant to the problem in hand. The problem of income taxation is in essence the problem of finding norms which will be useful as measures of the "respective abilities" of the "diverse" taxpayers who constitute contemporary economic society. With the possible exception of Haig, Hewett and Simons, this objective of income taxation apparently has been slighted by most of the American designers of concepts of taxable income. It would seem that Seligman and Fisher, in particular, have lifted the problem of income taxation out of its historical context. They have asked the question: what is income? One wonders whether such a question is of more than academic significance without the further query: what is to be the function of possible or alternative concepts of income? In his perusal of the literature, the present writer has found

[87] This will be undertaken in a subsequent article.

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little evidence which would indicate that the second question has ever been clearly and explicitly considered.[88]

On the assumption that inability to find such evidence is traceable to the nature of the materials inspected, a plausible explanation of the confusion and acrimony that have hovered about American income tax practice since its inception seems possible. Ever since income taxation, so called, became a statutory fact, there has persisted an irreconcilable conflict between the objective of public policy and the legislative definition—implied or explicit—of income. The objective of policy, though not always explicitly expressed, has been the measurement and taxation of income in accordance with the taxpayers' "respective abilities". Income, as defined in accordance with the periodicity criterion, modified by miscellaneous other tests of the academic writer's or legislator's choosing, was seized upon as *the* measure of ability. No questions regarding the limits of the measure were asked. This attitude, which to the present writer represents a distinct break with American traditions and the substance of American practice,[89] puts American income taxation, and hence taxation according to the ability principle,[90] at the mercy of those political squalls which serve the purpose of temporarily divert-

[88] A notable exception to this generalization is represented by Simons' book which was published after this article was substantially completed.

[89] Students will recall that the principal components of early American tax schemes were represented by property and occupation taxes. There can be no question but that in the early days both of these taxes closely approximated levies *in personam*, that is, levies, the impact of which varied with the economic circumstances of the taxpayer. As regards the occupation tax, it was realized at an early date that the varying degrees of skewness in the frequency distributions underlying average personal income in different lines of economic endeavor necessitated a shift from the occupation to the income base. However, property tax practice underwent no such change in response to changed economic conditions. Property taxes have tended to become strictly taxes *in rem*, that is, taxes assessed against capital instruments and evidences of indebtedness regardless of the economic position of the owner. In the early stages of the transition this mode of assessment probably did but scant violence to the principle of taxation *in personam*, but with the steadily mounting increase in mortgage debt, the property tax ceased to fall upon taxpayers in accordance with their "respective abilities", because the high positive correlation between a given person's property and his net worth ceased to exist.

[90] See Wueller, "Concepts of Taxable Income I", p. 96.

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ing the course of the ship of state from the port of acknowledged long-range public policy. If temporarily the wind howls off starboard, judicially sanctioned concepts of income are based upon the separation criterion. The wind shifts to port and the nineteenth-century legend, which tells a learned story about "legal persons" known to mortals as corporations, passes for truth; and a progressive rate schedule is applied to the "income" of these institutions.

It would seem that the incidence of these wasteful deviations could be substantially lightened, if it was clearly recognized and explicitly stated, by those who feel called upon to forge fiscally useful concepts of income, that income, no matter how defined, is but *one* of several measures of "ability". If one may be permitted to hazard a prediction, the objectives of traditional policy, reinforced by the equalitarian surges which have been so common since the official termination of the World War, will play havoc with American income taxation, unless the relatively limited scope of the income tax is frankly recognized and dealt with accordingly.[91] These considerations lead to the conclusion that though the contributions of American and German writers are often similar, and sometimes apparently identical as regards type of concept [92] and specific content,[93] the social adequacy of their respective concepts exhibits striking differences, because the different fiscal institutions in Germany, prior to the advent of the Third Reich, assigned a much more limited scope to income taxation. This relatively limited domain of income taxation in Germany must be clearly recognized whenever the procedural experiences or the conceptual adventures of that country are drawn upon.

[91] It may be pointed out in passing, that any attempt to force the generally acknowledged components of ability, such as net-fortune (net worth) and fortune-increment (net capital gain), into the income tax mold is foredoomed to failure, because: (1) these "accruals" behave differently with the passage of time; (2) taxation of different types of "accruals" have different economic and social repercussions; and (3) the ease with which different types of "accruals" can be controlled by their respective owners differs markedly.

[92] See Wueller, "Concepts of Taxable Income I", p. 98.

[93] *Ibid.*, p. 104.

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Again, by way of contrast, it must be observed that while successive German writers, with only minor exceptions, have offered increasingly more comprehensive concepts of income, no such clear-cut development is discernible as regards the sequence of American contributions. The overwhelming majority of German writers, though differing in the selection and combination of criteria, accepted concepts of the accrual type, but the American contribution has included two distinct types of approach, with Fisher leading those who espouse the cause of a concept of income of the disposition type. It was upon his foundation that subsequent Italian writers reared a superstructure, representing the ultimate in graceful but fragile refinement which income concept logistics has offered.[94]

[94] The Italian contribution to the concept of income will be discussed in a later issue of the QUARTERLY.

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TECHNIQUES OF PRICE CONTROL IN FASCIST ITALY[1]

EXCEPT in the case of wheat and a few other products there was no central control over prices in Italy until the Central Price Committee was set up in October 1935. This committee was appointed to stem the rising tide of prices, due to the expected Ethiopian conflict; a year later its powers, originally concerned only with twenty-one principal items of food, were enlarged to include control over almost all prices. This time the immediate concern was to keep down prices after the devaluation of the lira by some forty per cent, on October 5, 1936. The government's purpose was to curb unwarranted price rises and to make sure that old stocks of goods were sold at pre-devaluation prices. The last important change came in April 1937 when the control was turned over to the Ministry of Corporations; that is, the Minister of Corporations took charge; he was to act with the advice and help of the Central Guild Committee (*Comitato Centrale delle Corporazioni*). In each case there were provincial and municipal committees to carry out locally the regulations of the central bodies.

The general aims of price control in Italy have been to maintain the purchasing power of those least able to buy, to protect the lira and to gain, if possible, an advantage in foreign trade by price manipulation. Professor Francesco Vito in his article, "Politica economica e sociale corporativa",[2] maintains that the ultimate design of price control is to change the distribution of wealth. Dr. Gino Borgatta, writing in *Il Sole,* Milan financial newspaper, said that "the maintenance of

[1] This article was written while the author was recipient of an Italian exchange fellowship, administered by the Institute of International Education. The exchange took place between Columbia University and the Università Commerciale Luigi Bocconi at Milan.

[2] *Revista internazionale di scienze sociale,* July 1937, p. 182.

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internal price levels in Italy with respect to foreign prices has, and will have, a fundamental function in the defense and improvement of the equilibrium of our [Italy's] balance of payments." [8]

From the stabilization of the lira in 1927 to October 1936 the general policy was deflation. Rents and wages were reduced in successive stages by as much as 40 per cent during this period. Prices were low and the value of the lira fairly well maintained. Trouble began when the preparations for the Ethiopian conflict produced a boom and prices started skyward. In October 1935 the Central Price Committee (the *Comitato Centrale di Vigilanza sui Prezzi*) was set up under the direction of the Fascist Party. The president of this committee was the Secretary of the P. N. F. (*Partito Nazionale Fascista*). Its membership included: representatives of the Ministries of the Interior, Agriculture and Forests, Finance, Communications, Press and Propaganda (now Public Culture), the Undersecretary for Foreign Exchange,[4] Central Institute of Statistics, and of each Fascist Federation of Employers and Employees, of the agencies for credit and insurance of the professional groups and artists and of the National Commission of Coöperatives. The immediate task of this committee was to prevent excessively high prices of materials for the African campaign and to prevent scarcity of necessary articles.

The history of price control before October 1935 seems as irregular as the development of the guilds themselves. There was active control over wheat and flour prices, but in wheat, for example, no effective control was reached until 1936, when the central pools (*ammassi centrali*) were made obligatory. There were provisions concerning the amount of hard and soft wheat to be used and the proportion of foreign wheat to be mixed with domestic. Regulations for meat followed. Local price controls had been set up in 1934, but these were not satisfactory, since prices varied greatly from one center to another. The emergency of the Ethiopian campaign with its

[8] Jan. 14, 1937.

[4] Now Minister for Foreign Exchange (made so in November 1937).

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attendant boom prices forced the administration to adopt a centralized control under the aegis of the Fascist Party. At first the Central Price Committee was to have jurisdiction over only twenty-one vital necessities—mostly food. But as time went on, the committee found it necessary to extend its control to other commodities and to various grades of the same commodity. The theory was that the Central Committee at Rome should fix the base prices and that the Intersyndical Committees in each province should make up maximum price lists, differing from the base prices only because of local taxes, transportation costs and other local differences. The Intersyndical Committees were made up as follows: the Federal Fascist Secretary, President; a delegate of the prefect (*prefetto*) of the province; a delegate of the Provincial Office of Corporate Economy (*Ufficio Provinciale dell'Economia Corporativa*); and representatives of each of the local syndical organizations interested, including employers and workers.

The Central Price Committee first fixed its attention on the prices of goods which were widely consumed and of national importance. At all times in the last few years the policy has been to establish the prices of fundamental consumption goods, and to let the prices of luxury goods go their way. The first action of the Central Price Committee was to ask all the Intersyndical Committees in the 94 provinces to obtain and send in accurate prices for September 1935. In the case of exports that would have no effect on internal consumption and the cost of living, the Federal Fascist Secretaries could intervene and ask for concessions of higher prices from the Central Committee to enable these prices to reach a level with world prices, and hence aid Italy's balance of trade. To help the provincial committees, various technical commissions were appointed to aid in the proper determination of prices. These still exist.

The Central Price Committee took decisive action and stabilized the wheat market in March 1936 by assigning prices of 115 and 130 lire per quintal for soft and hard wheat respectively; thus it halted any excuses for higher prices of bread and food pastes. Differentials in the price of flour were

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arranged in such a way that the price of flour in a province which grew enough wheat for its own use was used as a base. Provinces that did not grow enough wheat paid slightly higher prices. Prices were also fixed for corn flour, rice, olive oil, seed oil, butter, cheese, eggs (by weight), meat, dried fish and alcohol. Much of this work consisted in formulating common nation-wide names for various grades of products.

In each shop must be posted the Maximum Price List (*Listino Prezzi Massimi*), which contains the highest prices which may be charged at retail and wholesale for each commodity. When there is a consumption tax on an article, the amount of that tax is printed next to the wholesale price. The Maximum Price List is usually published every fifteen days, but in Florence it has been published monthly since August 1, 1937. In addition to the longer list which includes most stable foods and necessities, there appears at shorter intervals a list for fish and eggs. Every two weeks or oftener a list for fresh meat is published. The provinces have the privilege of publishing further price lists for items not included in the lists mentioned; however, most provinces publish only those named above. If necessity compels, a new list may be issued at any time.

In the fixing of prices of non-foods, the Central Committee often coöperated with other control bodies. In the case of anthracite coal and coke, it simply sent out general directions to the monopoly on coal as to how to fix the prices. The Committee worked in harmony with the Ministry of War in fixing the prices of iron, steel and copper. Some of its studies went farther than mere price-fixing. For example, it examined the whole olive oil market. Since olive production has been decreasing in Italy, and the war has cut down imports from Spain, it is necessary to produce huge quantities of seed oil. Practically all the seeds must be imported and this weighs heavily on the trade balance. Olive production was encouraged and wholesale prices for olive oil were fixed at 800 lire per quintal for the best quality, 760 lire for "fine" quality and 750 lire for ordinary quality. In the case of seed oil, a

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maximum increase of 9 per cent was allowed for transportation over the determined price.

On May 19, 1936, for the first time since sanctions went into effect, index numbers were made public by the Minister of Finance in the Chamber of Deputies. In January 1935, the wholesale price index stood at 280.2 (1913 = 100); November 1935 at 355.7; and April 1936 at only 368.8. If we turn to foods, the rise from November 1935 to April 1936 was even less. Bachi supplies the following indices for wholesale food prices: January 1935—373.5; November 1935—416.3; and April 1936—417. The reason for the small rise from November 1935 to April 1936 was the control and pressure on wholesale and retail markets. The greatest rises took place from January 1935 to November 1935, the period immediately preceding the Ethiopian War; in other words, the boom prices occurred while the country was preparing for the African campaign. The greatest rises occurred in textiles, metals, coal and military supplies. The committee put the brakes on further advances when sanctions were imposed. By the end of July 1936 the price of soft wheat was 114 lire per quintal (October 1935, 110.5 per quintal); hard wheat, 128 lire per quintal (October 1935, 118.5 lire per quintal); and wheat flour 165.5 lire per quintal (October 1935, 161 lire per quintal). In August 1936 wages of all workers were raised by approximately 10 per cent to compensate for increases in the cost of living.

On October 5, 1936 Italy devalued its currency by 40.94 per cent; or fixed the lira at 92.46 per pound sterling and 18.99 per dollar. If at the time of devaluation the lira had been on a par with the leading international currencies, then the devaluation should have led to a price rise of 69.3 per cent to equalize the exchanges. Inasmuch as Italian money was at a discount of about 12 per cent in terms of other currencies, a theoretical price rise of 52 per cent might be expected. The Central Price Committee, now called the Permanent Price Committee, restrained the march of prices upward. The same technique was used as in the fall of 1935. The purpose in mind was to use up the old stocks that had been bought at

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low prices and to prevent speculation on the rising market. At this time control was clearly spread to practically all prices instead of the twenty-one originally controlled. At no time have certain very variable prices, such as those of fresh fruit, wine and vegetables, been fixed. For two years rents, water rates, rates for electricity, gas and public transportation were blocked.

In the period directly after October 5, 1936 there were only slight price variations on the Italian market. From September 1936 to December 1936 Professor Riccardo Bachi of the University of Rome reports [5] a rise of only 2.7 per cent in wholesale prices. From September 1936 to March 1937 wholesale prices rose 10.9 per cent, as compared with rises of 31.8 per cent in France, 8.1 per cent in England and 5.8 per cent in the United States. This rise of 10.9 per cent is far below the possible theoretical rise of 52 per cent. Retail food prices rose 6.2 per cent and the cost of living 5.1 per cent. The lag in retail prices was partly due to control and partly to their natural viscosity. The low rise in cost of living was partly due to the blocking of rents, gas, electric rates, etc. However, there was a rise of 6.5 per cent in wholesale prices from August to October 1936, some part of which was undoubtedly due to the anticipated devaluation of the lira. Turning to imported articles, we find the price index rising from 54.4 to 85.8 or 57.7 per cent from September 1936 to March 1937. For the same period world prices in terms of gold were rising 8 per cent. Roughly that would make the rise in import prices due to devaluation 49.7 per cent, or almost the entire 52 per cent which import prices reached in June 1937. To meet this rise in import prices, huge reductions in import duties were made; the wheat tariff was lowered from 72 lire per quintal to 18; taxes on meat were drastically reduced and the ad valorem duty of 15 per cent on all imports was removed. The purpose in mind was to equalize external and internal prices. This was particularly important for wheat, since huge imports were needed in the months after devaluation of the lira due to the insufficient crop of 1936.

[5] *Rivista di politica economica*, 1936, Fas. vi.

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Meantime the export price index rose from 47.6 to 59.8, or only 25.6 per cent, facilitating Italy's export trade.

Also greater publicity, uniformity of nomenclature, brands, qualities, etc. and the machinery of control made it possible for the first time to cut down the coefficient of variations in prices as between cities to 4.02 per cent. Control of Italy's economy has made it possible for the Central Institute of Statistics to get accurate data on a wider base than ever before, and to make a fairly representative set of index numbers, using 1928 as the base.

Returning to the actions of the Permanent Price Committee, we note that it sent out definite price orders on lead, although the Guild Committee charged with fixing monthly prices of lead was authorized to make whatever changes it thought necessary for all provincial lists. This hints at the coming change in the spring of 1937, i. e., the shifting of price control to the Guilds. Another regulation, January 15, 1937, limited the increases in the charges for heating to 10 per cent. Since the cost of central heating is not included in the rentals which were blocked for two years in October 1936, landlords had started boosting charges for heating far beyond what the rise in the price of fuel justified.

Numerous regulations followed, affecting the prices of olive oil, coffee, butter and dried fish. For the first time prices were fixed for Ethiopian coffee: *caffè* Harrar was to sell at 600 lire per quintal. Increases were permitted in the prices of iron, steel, brass and earthenware. On March 7, 1937, the price of cotton cloth was increased by 15 per cent over that of September 1936; a 10 per cent rise was granted for rayon; 6 per cent for dyes; and 9 per cent for cellulose.

On April 28, 1937, price control was transferred to the Central Guild Committee (*Comitato Corporativo Centrale*). The local provincial agencies for control became the Provincial Councils of the Guilds (*Consigli Provinciali delle Corporazioni*). The Central Guild Committee includes representatives of the twenty-two guilds, with Minister of Corporations Lantini presiding. The *Consigli* number sixteen members each: the prefect (*prefetto*), appointed by the Min-

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ister of Corporations who acts as President; the Federal Fascist Secretary; one president and two vice presidents of each of the three sections—the Fascist Federations of Agriculture, Commerce, and Industry—making nine in all from this group; two representatives of the Credit and Insurance Federation—one a worker, the other an employer; one representative of the Professional and Artists' Guild. Just as the prices fixed by the Central Committee in Rome are used as a base for the provincial price lists, so are the provincial lists used as a base for the lists of each commune. For example, in Florence, which is the center (*capoluogo*) of the Province of Florence, the price lists in force are those of the province, but in all the other communes there are local price boards, made up of the Mayor (*Podestà*), the Fascist Secretary and representatives of the local organizations, who fix lists subject to the approval of the *Consiglio*.

Apparently the change in control was made for political reasons. This development is all the more surprising, since in 1934 assurances were given that the corporate machinery would not deal with such delicate questions as price-fixing. The new arrangement fits in with the present economic organization of Italy. The former committee, an emergency body, was clearly an arm of the Fascist Party. Its presiding officer was the Secretary General of the P. N. F. Lorenzo La Via gives the Party responsibility for all price control up to April 28, 1937.[6]

What is the present philosophy of price determination in Italy? All the literature ridicules liberal economics. The only realistic approach is to ascertain scientifically the costs (real) of production. Antonio Arienti lists three methods of finding the cost of production (attributed to Minister of Guilds Lantini): (1) the analytical method—to discover the individual costs of every agency; (2) the empirical method—a study of one cost of production, the approximate average, derived from the sum of the individual components of the normal productive process; and (3) the indicative method or yardstick device—ascertain cost of production index, given by

[6] *Politica e tecnica fascista dei prezzi.*

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a typical agency that is subject to the latest innovations, technical and administrative discipline, and considered as best adapted to give the maximum return of utility.[7] Lantini favors the last method.

Under the Ministry of Guilds a price change is effected as follows: first, a request is received from a business for higher prices, since their costs of production have gone up. This request is investigated by the particular guild organization concerned; after a careful study of the costs (made at Rome), changes are recommended to and acted upon by the Central Guild Committee. If the need is urgent, Minister Lantini can rush the change through on his own authority.

After devaluation several revisions upward had to be made in prices to meet the higher costs of imported raw materials. The general policy was to have prices rise in Italy to correspond to rises in the United States and England, but at a slower rate, and if possible to keep down the prices of exported products. Inasmuch as prices in the United States and England have been declining recently, the Ministry of Corporations is now trying to halt further rises.

How effective is the control over prices? Many business firms like to have fixed prices, which eliminate the necessity of underselling competitors. In the United States the N.I.R.A. was popular with many industrialists for the same reason. The present writer asked a farmer at Capezzana how he liked the central pool system for wheat. He said it suited him very well, since under the current system he was sure of a fixed price, whereas previously he would receive a very high price one year for his wheat and the next a very low price. This was the general reaction of the farmers and storekeepers who were interviewed. Ordinary citizens are urged to familiarize themselves with the price lists. On October 6, 1936, the government advised the people that they should not through love of quiet living submit to any unjustified increases in prices. If a customer feels he has been overcharged, he may call the police, or report the case (properly documented) to

[7] *Gerarchia*, Sept. 1937.

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his Fascist section (*Riune*) where court and Party action is instituted against the offender.

Ordinary police (*polizzia ordinaria*) or police of the Ministry of Finance (*Guardia di Finanza*) or market police (*polizzia annonaria*) are assigned to check prices in local stores. The police can arrest storekeepers, fine them on the spot (giving a receipt); or they may take them to court where the offender may lose his license to do business; the Party may deprive him of Party membership. The minimum fine is 50 lira and in more serious cases from five days to two years imprisonment; the store may be closed for fifteen or thirty days. Ordinarily it is expected that the patriotism of each citizen and the *auto-disciplina* of the Fascist system will supply the incentives to make control effective. Where these are lacking, Fascist discipline deals with the culprits. Five or six Fascist volunteers are selected in secret by the leader of each local Fascist section to watch over prices because of their integrity and ability to report price evasions. There is no evidence of rough force or rowdyism in price enforcement.

Actually there are but few infractions of price discipline. Occasionally one sees in the newspapers that a merchant has been fined 200 lire for adulterating olive oil or milk. Carlo Spantivati reports that price infractions in Genoa numbered .51 per cent and that out of 62,500 visits to stores in Milan, 49 (or .078 per cent) of them had to be closed.[8] In the earlier days there were definite "strikes" against certain local prices by farmers who withheld the products concerned from the market. Buyers are often as guilty as sellers, when they fail to report or resist price infractions. In *Il Sole* is this comment: "Infractions in the discipline of prices become possible only when the buyer and the seller agree to elude and violate price regulations."[9]

Lorenzo La Via sums up the problem of enforcement by saying: "The problem of markets loses, then, its character of a job for the police, and is transferred to the corporative plane. Every day guild government becomes more unified and articu-

[8] *Il Sole*, Jan. 30, 1937.

[9] Nov. 9, 1937.

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late; more profoundly colored with moral and political motives of national power and social justice." [10]

It is necessary at this point to note the movements of various price, cost of living and wage indices in Italy for the last few years.

First, there follows a comparison of wholesale, retail price indices and cost of living indices from 1929 to 1936.

(1928 = 100)

Year	Wholesale Price Indices	Retail Price Indices	Cost of Living
1929	95.4	105.4	101.15
1930	85.4	96.4	97.73
1931	74.5	83.1	88.26
1932	69.6	79.7	84.10
1933	63.4	75.5	80.50
1934	62.0	71.0	76.39
1935	68.2	73.4	77.48
1936	76.4	80.9	83.52
1937	89.3	90.4	98.22

Materials from the *Bolletino dei prezzi*, March 15, 1938, published by the Central Institute of Statistics, Rome.

From December 1935 to December 1936, including sanctions and the first few months after devaluation, bread increased in price 8.5 per cent, food pastes 4.5 per cent, beef 15.6 per cent, bacon 5.7 per cent and olive oil 11.7 per cent, while the price of potatoes fell 12.5 per cent and rice 3.8 per cent.

Below is a tabulation of the cost of living, wage and retail food price indices from September 1935 to December 1936.

(1928 = 100)

Month—Year	Wage Index (hourly)	Cost of Living	Retail Food
Sept. 1935	84.46	77.47	73.11
Nov. "	84.46	80.51	75.61
Dec. "	84.97	81.52	76.36
May 1936	84.97	83.50	78.05
Sept. "	91.00	83.51	79.55
Oct. "	89.49	85.23	79.93
Nov. "	89.49	85.51	80.50
Dec. "	90.50	85.98	81.26

Materials from *Bolletino dei prezzi*, January 15 and March 15, 1937.

[10] *Politica e tecnica fascista dei prezzi*, p. 136.

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The cost of living rose during sanctions and the first few months after the money realignment 8.5 points or 11 per cent; food, 7.39 points or 10 per cent; wages, 6.04 points or 7.3 per cent. From September 1935 to August 1936 (from the month before sanctions to the month after), wholesale food prices rose 3.5 per cent, retail food prices 3.4 per cent, and the cost of living 7.3 per cent.

Below is a table of indices of prices, money and real wages, and the cost of living from September 1936 to December 1937 (last figures available).

(1928 = 100)

Month—Year	*Wholesale Price Indices*	*Retail Price Indices*	*Cost of Living*	*Monthly Industrial Wage Index* [a]	*Index of Real Wages* [b]
Sept. 1936	76.9	74.6	83.54	83.7	100.2
Oct. "	77.1	74.8	85.23	83.2	97.6
Nov. "	77.8	75.6	85.51	80.6	94.3
Dec. "	79.0	78.8	85.98	82.9	96.4
Jan. 1937	81.6	78.9	86.40	79.4	91.9
Feb. "	83.3	80.5	86.90	82.5	94.9
Mar. "	85.1	82.1	87.18	85.7	98.3
April "	86.1	82.6	87.77	86.2	98.2
May "	87.8	84.1	90.22	91.9	101.9
June "	89.6	86.0	91.01	96.2	105.7
July "	90.3	86.7	92.86	101.2	108.9
Aug. "	91.2	87.2	93.26	95.6	105.6
Sept. "	91.7	88.0	94.17	98.5	104.6
Oct. "	93.0	94.1	95.95	95.0	99.0
Nov. "	95.1	95.8	96.93	91.2	94.1
Dec. "	96.4	97.0	98.29	93.7	95.3

Materials from the *Bolletino dei prezzi*, March 15, 1938.

[a] The index used here is found in the Appendix of the *Bolletino dei prezzi* for March 15, 1938. The Italian industrial wage statistics have been very unsatisfactory for many years. An attempt has been made to get a better index, since the hourly wage index presented a serious cumulative error. I have used the monthly wage index, since that includes the factor of average number of hours worked per month. Both the new hourly wage index and the monthly wage index are still calculated by the chain method.

[b] The real wage index has been calculated by dividing the index of monthly industrial wages by the index of the cost of living.

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The rise in wholesale price indices from September 1936 to September 1937 was from 76.9 to 91.7 or 19.2 per cent; the rise in the cost of living indices 83.51 to 94.17 or 12.7 per cent. The rise in retail prices was 14 per cent. The rise in wholesale prices from September 1936 to November 1937 was 23.7 per cent; retail prices 28.4 per cent. The theoretical possible rise was computed at about 52 per cent. It is clear that control has constrained the rise in prices.[11] Meanwhile, wages were raised in May 1937 by 8-10 per cent more, bringing the total rise in wages from July 1936 to June 1937 to 19.2 per cent. This indicates that wages have been stepped up to meet the rising cost of living. However, many professional people received no rise in income.

There follows a table of retail food prices, their index numbers and percentage differences from September 1, 1936 to September 1, 1937:

(1928 = 100)

Food	*Amount*	*Price Sept. 1,'36*	*Index No.*	*Price Sept. 1,'37*	*Index No.*	*Change in %*
Bread	per kg.	1.62	89.5	1.82	100.6	+12.4
Wheat flour	"	1.69	88.0	1.91	99.5	+13.1
Rice	"	1.58	84.5	1.63	87.2	+ 3.2
Corn flour	"	1.19	84.4	1.16	82.3	— 2.5
Food pastes	"	2.28	87.0	2.59	98.9	+13.7
Potatoes	"	.56	62.2	.56	62.2	.....
Ox meat	"	7.90	96.8	9.89	121.2	+25.2
Fresh pork	"	8.64	80.0	11.56	107.0	+33.8
Eggs	per doz.	5.17	72.8	5.69	80.1	+10.0
Salt pork	per kg.	7.47	79.6	10.83	115.5	+45.1
Cheese	"	9.86	53.4	11.59	62.8	+17.6
Butter	"	12.37	70.4	15.71	89.5	+27.1
Olive oil	per litre.	6.49	71.0	8.32	91.0	+28.2
Sugar	per kg.	6.18	89.3	6.19	89.5	+ 0.2
Coffee	"	31.58	107.5	33.49	114.0	+ 6.0
Milk	per litre	1.04	73.2	1.13	79.6	+ 8.7

Prices in lire: Materials from *Bolletino dei prezzi*, Sept. 15, 1937.

The greatest rises occurred in meat prices; butter and olive oil prices came next, with more moderate rises in bread and flour.

[11] For a more complete discussion of the question consult the author's volume on *Price Control in Fascist Italy*.

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All the statistics used above are government figures. In drawing conclusions from them one must be careful to keep this in mind. The national index of wholesale prices, formed in 1934 and 1935 on the base of 1928 by the Central Institute of Statistics, is based upon the prices of 125 articles, divided up into raw materials (42), half-finished goods (40) and finished products (43). Some 293 different qualities are used, and the total quotations from 73 population centers amount to 1,610. This index number is very close to those of Professor Bachi and that of the *Consiglio Provinciale dell'Economia Corporativa* at Milan whose base is 1913. Bachi compares the variations in the three indices for the period from January 1935 to December 1936.[12] The national index (1928 = 100) indicated a rise of 27.4 per cent; Bachi's index (1928 = 100) indicated a rise of 29.8 per cent; and the Milan index indicated a rise of 38.9 per cent.[18] The range of dispersion was greater in 1935 than in 1936. Space does not allow comment on the other indices used.

Too much weight cannot be given to the studies made in a few months; however, one may venture certain observations. The price control plan of Italy is frankly an experiment that grew out of national necessity. First, the government did not want the Ethiopian campaign to be too costly. Hence control was a means of battling sanctions. Later it was to prove a brake on price rises due to monetary realignment. Then it was made an integral part of the guild system with the vision of as complete autarchy as possible for Italy.

[12] "I Prezzi delle merce in Italia negli anni 1935-1936", in *Rivista di politica economica*, 1937, Fas. iv.

[18] The difference in the results is due to many factors. Both the Bachi and the Milan indices include fewer items and quotations: the Bachi index includes only 113 items and a total of 150 quotations; the Milan index only 98 items and a total of 125 quotations. The national index and the *Indice Bachi* employ the weighted geometric mean, while the Milan index employs the arithmetic mean. The Milan index shows the greater difference, since new items have been substituted from time to time for those no longer economically important and since its base is far removed. Professor Tenderini in his *Analisi sui prezzi in Italia dal 1901 al 1932* claims that "As you increase the distance from the base, wholesale price indices keep losing their significance" (p. 46).

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Italy can do nothing about prices in other countries, or the weather at home. In other words, she must pay international prices for her imports, and for her crops she is clearly dependent on the weather. The "battle of wheat" is only won when the weather is propitious. Despite brave attempts to replace imports by substitutes, and despite some brilliant successes in this endeavor, Italy is still very poor in mineral oil, cotton, wool, iron and coal.

In January 1938 bread was selling at an average of 1.77 lire per kilogram, or about 4.4 cents a pound; eggs about 41 cents a dozen; cheese 32 cents a pound; butter 40 cents a pound;; olive oil 40 cents a litre; sugar 16 cents a pound; coffee 80 cents a pound; and milk 6 cents a litre. These are high prices for a country where the average industrial hourly wages are 11 cents per hour.

Despite control certain prices are very high because of consumption taxes. For example, at least half the price of sugar (about 16 cents per pound) is government tax. Salt is very expensive, since it is a state monopoly run for profit, while the state reaps a profit of 93 per cent from tobacco sales at excessive prices. Coffee at 80 cents a pound, tea at $2.00 a pound and gasoline at 50 cents a gallon are likewise heavily taxed.

The greatest shortcoming of price control at the present time, in the eyes of Italian and foreign economists as well, is that the control is political rather than economic in character. Even with the most carefully worked out economic control, it is doubtful if the system would be fool-proof. There is no field in economics more hazardous than tampering with prices, unless it be monetary control, which is part of the same process.

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CLAPHAM'S CONTRIBUTION TO ECONOMIC HISTORY

TO economic historians two of the most important events of 1938 were J. H. Clapham's retirement from the chair of economic history in Cambridge University and the publication of his third massive volume on the economic history of modern Britain.[1] These two events justify us in attempting an estimate of the contributions Clapham has made, and will, we hope, continue to make in his field.

In his inaugural lecture at Cambridge,[2] in his article on "Economic History as a Discipline" in the *Encyclopaedia of the Social Sciences*,[3] and in the preface to the first volume of his study of Britain, Clapham reveals the faith that is in him. Article I of that credo is that the "methodological distinctiveness" of economic history "hinges primarily upon its marked quantitative interests; for this reason it is or should be the most exact branch of history." True, the lack of statistical material for most periods, except the last hundred and fifty years, makes it difficult or even impossible to introduce quantitative treatment into some fields or centuries; and it is only in price history and one or two other chapters that the economic historian can hope to climb to the same "plane of truth" as that "to which the fully equipped inductive economist may conceivably attain." But the attempt must be made at every point in the story to "offer dimensions in place of blurred masses of unspecified size."

Article II of Clapham's creed follows inevitably from the first. Having got into the habit of asking "How large?", "How long?", "How often?" in studying any institution, policy, group or movement, we must pass on to ask "How representative?" It is not sufficient to describe a *latifundium*, a manor, a gild, an enclosure movement, a joint stock company, a textile factory, a trade union,

[1] *An Economic History of Modern Britain.* Vol. III: *Machines and National Rivalries (1887-1914), with an Epilogue (1914-1929).* New York, The Macmillan Company; Cambridge, England, at the University Press, 1938. xv, 577 pp. $7.00. Vol. I appeared in 1926, Vol. II in 1932.

[2] *The Study of Economic History* (Cambridge University Press, 1929).

[3] Vol. V, pp. 327-330.

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or a wage-curve for handloom weavers; you must try to discover how much of the field your description covers, how far it is typical or represents only part of a varied picture, and what covers the rest of the canvas. To depict medieval England by describing a manor and a gild, seventeenth-century commerce by telling the tale of the East India Company, or early nineteenth-century England by describing Lancashire cotton conditions is to pass the part off as the whole and conceal "the vast variety of history." And if you arrange your type-pictures in a series of stages, as the Germans fondly used to do, you do "more harm than good to the study of economic history."

The final clause of the creed is implicit rather than expressed. It is an all-pervading common sense, which is always fair and dispassionate, which discounts, or at least tests, the claims and charges of controversialists, and which judges action or inaction not in the bright light of ideal or utopian standards, but in the foggy drizzle of what was possible at the moment. One example only can be given, but it is a good specimen. The British government has been lashed for its incompetence or inaction in coping with the problems of the years after Waterloo. But, says Clapham, "There is a limit —very soon reached—to the amount of workmanlike creative legislation or administration of which any government is capable in a given time. There was no limit to the call on creative ability in a nation barely recovered from twenty-two years of war, shaken by ill-comprehended economic change, and bewildered by a growth in its own numbers without precedent in history. Judged as governments are perhaps entitled to be judged, not by what proved practicable in a later and more experienced day, nor by what reformers and poets dreamed and were not called upon to accomplish, but by the achievement of other governments in their own day, that of Britain in the late twenties of the 19th century makes a creditable showing" (vol. I, p. 316).

By this combination of measurement and moderation Clapham has given us much that is brand-new and much that revises drastically the popular (and even some academic) views of nineteenth-century Britain. The period since 1850, covered in the second and third volumes, is now comprehensively surveyed for the first time; yet even there we are put straight on some topics that we thought we knew, and our sense of proportion has been profoundly modified. It is in the treatment of the story before 1850, however, that the Clapham technique has been most devastating to the melodramatic

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legends which had made their nests in the boughs of the "Industrial Revolution".

Clapham made that revolution a study in slow motion: no single industry had passed through a complete technical revolution by 1830; outwork, under the putting out system, "probably was still the predominant form" of capitalistic industrial organization in the 'twenties; and there was no headlong rush from village to town or from cottage to factory. He analyzed the population's occupations, and found that there were more tailors, and many more shoemakers than there were coalminers; that the number of female domestic servants was probably more than 50 per cent greater than that of cotton operatives; that the "representative Englishman" in 1831 was not yet a townsman; that "the typical town worker of the decade 1820-1830 was very far indeed from being a person who performed for a self-made employer, in steaming air, with the aid of recently devised mechanism, operations which would have made his grandfather gape"; that we have to come a rather long way down the century before the gaping becomes typical, and that even in 1851 Britain is not yet an *Industriestaat*. Finally, he attacked the legend that everything was getting worse for the working man down to about the middle of the century, by showing that after the great price fall of 1820-1821 the purchasing power of wages in general was definitely greater than it had been just before 1793; that there were great differences between working and housing conditions in different industries and areas; and that the new feature of industrial-urban society was not its "evils" but the growing realization that they were evils. "Sanitation" was the new thing, not stenches.

The quantitative method has two obvious defects; it cannot measure quality, and it may lack satisfactory figures with which to work. Clapham exploits his figures thoroughly but cautiously, and has gathered them in from every available source; yet he is often forced to make well-informed guesses, to confess "qualified agnosticism", or to load a conclusion with so many conditions and reservations that it really breaks down. For example: "The conclusion of a difficult problem, which contains a number of doubtfully known quantities, is that whereas on the average the potential standard of comfort of an English (with Welsh) rural labouring family in 1824 was probably a trifle better than it had been in 1794, assuming equal regularity of work, there were important areas in which it was definitely worse, others in which it was probably worse, and many in which the change either way was imperceptible" (vol. I, p. 131).

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The charge that Clapham ignores the quality of life and takes no stock of human happiness, suffering and discontent has been made by such critics as the Hammonds. To it Clapham replies in the last paragraph of his third volume: "Of uprightness, wisdom, and the clearness of the eye the economic historian as such may not profess to speak. He moves on the lower plane, the plane of commodities and comforts. Moving there, he does not hesitate to compare (the eve of the Great War) to its advantage—not only with other times in the industrial age, but with any time certainly known to him. And to those who lean towards quotation from the Book of Ecclesiastes he replies from that same discerning Book: 'Say not thou "What is the cause that the former days were better than these?" for thou dost not enquire wisely concerning this'" (vol. III, p. 507). Even an economic historian can quote scripture to suit his purpose.

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REVIEWS

Some Theoretical Problems Suggested by the Movements of Interest Rates, Bond Yields and Stock Prices in the United States since 1856. By FREDERICK R. MACAULAY. New York, National Bureau of Economic Research, 1938.—xvi, 240, A351 pp. $5.00.

Many recent publications concerned with economic fluctuations, particularly those from overseas, have centered in the interest rate problem and have developed elaborate theories resting on what is called *the* interest rate. The validity of such theories becomes questionable when one recognizes the actual existence of many different rates, which frequently move in diverse directions over the same period. By centering his attack upon the principal types of rates, Dr. Macaulay approaches interest rate theory from a realistic viewpoint. He delves into some basic problems concerning interest rates, presents new statistical series and provides new analytical tools. The book deals largely with statistical data. Its 265 pages of tables present monthly time series covering many types of interest rates and bond yields, as well as various banking and industrial processes.

At the outset Dr. Macaulay sketches the philosophical basis of his approach. To him the interest rate problem is essentially a numerical one, and all attempts to discuss it in terms of "why interest" are inadequate and incomplete. He is aware, however, that a true explanation can result only from intelligent hypotheses and rigid testing, not from a mere empirical collection of facts. Unfortunately the process of testing hypotheses in the social sciences differs from that in the physical sciences, for in attempting to analyze or forecast economic activities investigators cannot make use of controlled conditions.

Having set forth his ideas on method, Dr. Macaulay indicates various types of interest rates that hitherto have received little or no attention from theorists.[1] He points out that there may be more

[1] It is interesting to note the differences in the methods used by Mr. J. M. Keynes in his *General Theory* and by Dr. Macaulay. Whereas Keynes uses the fiction of *the* interest rate as though there were a single interest rate, and immediately passes on to a study of its relations to various other magnitudes

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than one interest rate for a single bond, since concealed in any one average long-term rate are numerous and erratic short-term rates. There is, however, only one "yield" of a bond at a given time. This "yield" is a rate of interest such that, when it is used to compute the discounted present values of all the future payments, the sum of the present values will equal the selling price of the bond. To preserve the theoretical relationship between present long-term and future short-term interest rates, the yields of the highest grade bonds should fall, when the short-term rates are higher than the current yields on the bonds, and rise during a period in which short-term rates are lower. In actuality this relationship is not fulfilled. An examination of call and time rates shows such diverse movements that forecasting short-term rates by long-term rates is practically useless.

Macaulay shows also that the concept of "pure" or "riskless" interest is metaphysical. Risk disappears only after the occurrence of the event that earlier created the risk; and interest rates are likewise relevant only in advance of the event—that is, before the maturity of the obligation. There are, hence, always two rates of interest with respect to any loan: the "actual" or "realized" rate, which can be known only after the last payment has been made, and the "promised" or "hypothetical" rate, which is anticipated at the time the loan is made. The two may or may not be identical.

After discussing the theoretical and practical difficulties encountered in comparing long-term interest rates over a period of time, Dr. Macaulay invents a most ingenious statistical tool for constructing an index of bond yields. This tool consists of "sigma lines", which are "the movements of yields and the yields themselves." They are determined by fitting linear equations to scatter diagrams,

in economic processes, Macaulay shows that all interest rates are significant and examines the functional relationships among them before testing speculative hypotheses. Keynes builds a closed consistent system based on definitions which rule out important complexities in economic processes or unite too many of these complexities in one catch-all. Though both studies are useful, the general theories excogitated by Mr. Keynes, based on these oversimplifications, may have to be so altered in the light of additional facts, that his present published conclusions will of necessity be changed and his suggestions as to policy left in mid-air. For example, the diversity of interest rates, both in actual types and in the existence of the same types in different markets, makes Keynes's use of the concept of "liquidity preference" rather dubious, because each type of interest rate may entail its own "liquidity preference schedule". These preferences may neither cancel out, nor move in the same direction in such fashion as to give a significant *average* liquidity preference.

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on which the logarithms of yields of one date are plotted against the logarithms of yields of a later date in such a manner that the lines are free from bias arising from statistical technique, and also free from any economic drift "caused by secular and cyclical changes in the grades of bonds." By cumulating the products of the slopes of successive sigma lines, the slope of the sigma line between any two dates may be found. From the latter slope, index numbers can be read off, and differences in the movements of the yields of bonds of different grades in different periods can be studied. Macaulay uses this device to construct a chain index on an arbitrary base that reflects reality but in which the question of drift has been considered.

The problem of stocks is next brought into the picture. After showing that properly weighted averages of stock prices are better indicators of grade than stock yields, Macaulay makes an index in which prices of individual railway stocks are weighted by the number of shares outstanding. A comparison of this series with monthly movements of adjusted index numbers of high grade railway bond yields shows dissimilar secular movements, but a fairly close association of cyclical movements. This result is accounted for by the fact that the cyclical movements of both series reflect cyclical pressures for liquidation. The dissimilarity in trend is explained by the fact that the long-time movement of stock prices is affected by anticipated stock earnings, which have much less influence upon the prices of bonds.

These basic problems occupy the bulk of the text. The author then undertakes a brief but stimulating examination of some problems concerning the relationships between commodity prices and interest rates, bond yields and short-term interest rates, bank clearings and pig iron production. In the section on commodity prices and interest rates, Dr. Macaulay, in criticizing Professor Fisher and Mr. Keynes, points out that though a correlation of sorts is apparent between the movements of interest rates and of commodity prices, the exceptions, which do not neutralize one another, are so numerous and glaring that they cannot be disregarded. He also refutes the numerous theories, current among business men, that attempt to explain why this irregular relationship should exist.

It is only in the last chapter that Dr. Macaulay attempts to study the reasons for the leads and lags among the various series mentioned in the previous paragraph. In his brief discussion of this subject he finds that even between series that are closely related, the leads and lags are not very uniform. He comes to the conclusion—which

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echoes the central theme of the first chapter—that society fails to foresee and adapt itself to the future, and must salvage itself by molding the future rather than by attempting to forecast it. "The hope of the world lies in truly social as opposed to merely individualistic economic planning." "The essential objective of public planning", adds Dr. Macaulay, "should be to make legitimate and desirable private planning easier and not more difficult—unless we are willing to 'go the whole hog' and lapse into communism." But how to make "private planning easier" and at the same time inaugurate "truly social as opposed to merely individualistic economic planning" seems to be a dilemma not resolved by Dr. Macaulay; nor is any attempt made to set up standards which determine what is "legitimate" and "desirable".

Despite its lack of clarity on the question of planning, a problem incidental to the study, the book is well oriented with respect to the problems it directly considers. Although the bulk of it is devoted to a presentation and analysis of new and accurately compiled statistical data, it is a work of theoretical importance if one believes, as does the reviewer, that economic theory should be an attempt to analyze and synthesize reality as reflected in measurable magnitudes wherever possible, rather than to construct systems that ignore large parts of our economic life. Dr. Macaulay's real contribution lies in his presentation of valuable new data and in his critical examination of some of the fundamental concepts of the interest rate problem. It seems fair to say in conclusion, however, that although Dr. Macaulay has cleared away much of the underbrush, the larger part of the interest rate problem still remains to be solved.

P. BERNARD NORTMAN

NEW YORK CITY

Industrial Reconstruction and the Control of Competition: The British Experiments. By ARTHUR F. LUCAS. London, New York, and Toronto, Longmans, Green and Co., 1937.—xi, 384 pp. $5.75.

After painstaking research Mr. Lucas has presented, with the aid of both historical and economic analysis, an interpretation of the British industrial scene following the World War. His style is vigorous, his analyses are presented in a clear-cut fashion, his conclusions are well considered and are related to the facts disclosed.

After describing the status of the competitive system and its relation to British industrial structure and social policy prior to the War,

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the author reviews the circumstances that have led to the abandonment of the competitive ideal and the motivation for the movement toward control. The scope of the movement—the industries involved, and the general effect on the industrial structure and government policy—is appraised. The book also includes a review of the leading experiments in control in some of the basic industries, including agriculture, as well as some of the less important trades.

The emergence of centralized control in British industry is no isolated phenomenon, the other aspects being far-reaching changes in social philosophy, the threatened collapse of the whole British economic structure, the renunciation not only of the traditional technique of industry but also of the very assumptions on which the nineteenth-century supremacy of British industry was based. In other words, the transformation that has taken place involves a denial of the classical concept of a static, self-equilibrating economy, accepting the view that the automatic regulation of price competition has signally failed. The author decries the confused assumption of the nineteenth century that laissez faire meant free competition and says that the common law lost its old abhorrence of monopolistic restraints and became instead deeply solicitous for individual freedom.

British social policy has been characterized more by a distaste for governmental interference than by a regard for the competitive system. This attitude still persists in spite of the increasing number of instances in which the government has been forced to intervene. The task of reconstruction has been placed directly on the doorsteps of industry itself and the government has participated only to the extent that industry has shown itself incapable or unwilling to undertake the task. The necessity for concerted action has been impressed on the British industrialist from all sides. Thus it appeared to be officially accepted doctrine that "it is in proportion as the principle of co-operative action and control is accepted that we find economic success achieved, both at home and abroad." It was felt that the necessity for action was pressing, for, "in one way or another, the most important of our rivals and customers have swiftly and progressively readjusted their productive apparatus and reorganized in terms of the new power placed at the disposal of trade and industry by science and co-operation."

The attack on competition as well as the advocacy of industrial coöperation, especially during the period of the early nineteen-thirties, was as outstanding a phenomenon in England as it was in this country in the heyday of the N.R.A. experiment in industrial self-

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government. Measures were even sought from Parliament by industry in the form of a general enabling act that would stipulate the conditions under which any industry might proceed to reorganize itself and, in particular, would give an industry adequate power to coerce an obstinate minority. An organization known as the Industrial Reorganization League seeks legislation providing for "self-government in industry", in order to create a "coherent organization in each industry", to enable "redundant effort and uneconomic competition to be progressively eliminated", and to defend industry from the "dislocating consequences of over-production, weak-selling, and the maladjustment of supply to estimated demand."

Yet moving from the competitive system to self-government, industry appears to be jumping from the frying pan into the fire, as the author reveals the disappointing results of control in industry after industry. In the steel industry, for example, when firms retain their financial independence it becomes impossible to bring about drastic reorganization or to control competition. The scheme for self-government gets progressively "watered down" as the result of the refusal of certain sections of the industry to give strong powers to a central authority.

There is a summary chapter of the case for and against the movement for self-government of industry. The author apparently considers the movement, as it occurred in England, a phenomenon of industrial depression, designed to protect industry against the extreme competition of a receding market. However, he feels that if the movement toward industrial control is to become a permanent feature of British industrial technique the public and industry as well must be prepared to accept a close participation by the government in the internal affairs of industry. If competition is permanently discarded some alternative agency will be required to protect the public and, moreover, most industries will require the sanction of government to enforce their regulation on minorities.

JAMES G. SMITH

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International Control in the Non-Ferrous Metals. By WILLIAM YANDELL ELLIOTT, ELIZABETH S. MAY, J. W. F. ROWE, ALEX SKELTON, DONALD H. WALLACE. New York, The Macmillan Co., 1937.—xxi, 801 pp. $6.50.

The second part of this book constitutes its main contribution: a series of detailed case studies which throw a flood of light on the

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history of marketing and production control schemes in six mineral industries. Nickel, copper, lead and zinc are dealt with by Alex Skelton; the copper, lead and zinc industries in the United States and the international tin cartel by Elizabeth S. May; and aluminum by Donald H. Wallace. The case studies are preceded by several chapters of general analysis and comment in Part One: "Political Implications", by W. Y. Elliott; "Some General Economic Aspects", by J. W. F. Rowe; "The Mechanics of International Cartels", by Alex Skelton.

The great importance and interest, both political and economic, of the mass of material brought together in this volume fully justify the reasoning, explained by Professor Elliott in the Introduction, which led the Harvard and Radcliffe Bureau of International Research to direct its study of control schemes into the field of the non-ferrous metals. No one who wants to form a considered opinion on experiments in conscious regulation of raw material output can afford to neglect the data here assembled.

Having duly reported the great value of the factual research which forms the bulk of the book, we may now concentrate on the interpretations, where there is always more room for discussion. Some of the economic analysis implied in Professor Elliott's chapter on "Political Implications" is questionable. "Insofar as the cartel, as an international business organization, attempts to concentrate production at the most profitable, and consequently the most economic, points, it fulfills a useful economic function" (p. 37.) A statement on page 39 says that the only "sound" form of cartel does this. But the main point about the economic effects of the cartel, as a form of industrial organization, is that it tends to do just the opposite and almost invariably does so. That is, it protects high-cost producers and limits the expansion of low-cost producers. That is why, if there must be monopolistic control, a world-wide *concern* (like the International Nickel Company) may be less wasteful and less costly to consumers than a world-wide *cartel.*

In general, both Professor Elliott and Alex Skelton, while pointing out abuses of control schemes, seem to be too uncritical about accepting the general goals of control-scheme organizers as desirable. They adopt too readily the easy use of terms like overproduction and excess capacity, which is habitual with the apologists for restriction experiments. By contrast, the wholly admirable chapter of economic analysis by J. W. F. Rowe (one of the best things in the book, which should be compulsory reading both for hard-boiled advo-

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cates of laissez faire and for hopeful planners) and the aluminum study by Donald H. Wallace stand out for their careful use of these concepts and for their attention to such important matters as the relation of control-scheme policies to overinvestment. Rowe talks for five pages about different types of excess capacity, their relation to prime costs and fixed costs and obsolescence, before he ventures to write (p. 66) "excess capacity conditions *as defined above*."

Those who talk about "planning" and "control" in economic life always ought to pause early in their discussion and face certain searching questions: Control for what purpose? By whom? If it is production restriction, at what phase of the business cycle? Of these questions, "By whom?" is strategically the most important, for its determination is likely to be the key to other answers. So long as controls are managed by producers in their own interests, or by governments of regions in which the producer-interest is uppermost, the beneficent results for the public at large, that are in some cases theoretically possible from conscious production control, are unlikely to appear, or will be offset by greater losses. Here, it seems to the reviewer, are to be found the main political implications of Mr. Rowe's cogent economic analysis. That analysis concludes that production controls may be beneficial during general depression periods (*not* when the "depression" is felt only in the one industry concerned, due to loss of demand or improvement of technique or discovery of new sources), but that controls should be relaxed during recovery so that obsolete and inefficient capacity may be forced out by competition. But experience shows that schemes managed by producers are likely to break down when they might really do some good, while those managed by governments at the behest of producers are likely to be continued when they should be scrapped. The political prerequisite for getting beneficent results from control schemes in practice would seem to be some form of international governmental authority to control the controllers. The authority would have to be strong enough to do its task, and broadly enough based to represent mainly the interests of consumers. The very statement of that prerequisite shows that for some time we must expect to endure non-beneficent results from producer-managed control schemes, perhaps mitigated somewhat by a growth of farsightedness on their part. For it seems likely that control schemes will become an increasingly important part of economic and political life.

EUGENE STALEY

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The Interstate Commerce Commission. Part Four. By I. L. SHARFMAN. New York, The Commonwealth Fund; London, Humphrey Milford, Oxford University Press, 1937.—xvi, 550 pp. $4.50.

This completes the four-part, five-volume treatise upon the Interstate Commerce Commission, the preparation of which was begun twelve years ago. As the author states in his introductory note, in the concluding volume, "the threads of the entire study are drawn together into a final conclusion". In the four preceding volumes, Professor Sharfman has set forth and discussed the federal legislation that has been enacted from 1887 to the present for the regulation of interstate carriers and has described fully the scope of the Interstate Commerce Commission's jurisdiction. The activities of the Commission in enforcing the legislation have also been analyzed in detail. The concluding volume, in its first major subdivision, discusses the Commission's organization and personnel, explains how the manifold administrative functions are allocated among the divisions and members of the Commission, and how the fifteen bureaus function in the performance of their duties. The second general subject of discussion is the procedure followed by the Commission—its rules of practice, its method of handling informal complaints and formal cases. The Commission's procedure in conducting investigations, in the valuation of the property of the carriers, and in regulating the finances of carriers is also clearly and fully explained. This is followed by the consideration of the recent large increase in the number and range of the Commission's tasks, and a discussion of the consequent proposals for reorganizing the Commission for the purpose of subdividing it into what would, in effect, be a coördinated group of commissions, each having its special field of action.

The reorganization of the Commission which the Coordinator of Transportation, Commissioner Joseph B. Eastman, sought to bring about by Congressional legislation is impartially presented, the pros and cons being set forth. However, it is not surprising that the views of the author coincide with those expressed by the Commission in opposition to the adoption of the Coordinator's plan of increasing the membership of the Commission from eleven to sixteen, composed of a permanent chairman and four divisions or, in effect, four smaller commissions, subject to a Control Board consisting of the permanent chairman and the chairmen of the four divisions. The author's reasoning is convincing. There is no present need for increasing

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the number of commissioners; the unity of the Commission should be so maintained that "large matters of policy, in the first instance, should be exercised by the Commission as a whole, rather than by any designated portion of the membership"; and the Commission should be left free to shape and reshape its organization with reference to the activities it has to engage in, without being "hampered by inelastic statutory requirements."

The conclusions that Professor Sharfman has reached regarding the Interstate Commerce Commission as a result of his twelve years of study are worthy of special note. He has good ground for concluding that the Commission has been successful in performing a most difficult task. The results accomplished are attributed to four causes: "First, the essence of private enterprise has been maintained, despite the extensiveness of public control." Congress in legislating and the Commission in regulating have sought to perpetuate private, and to avoid public, ownership and control of the transportation facilities subject to Commission jurisdiction. Second, the legislation that has established and extended the Commission's jurisdiction "has been evolved by a prolonged process of trial and error and reflects actual needs convincingly established by the test of experience." Another reason for the Commission's success has been its adherence to an "administrative policy dominated by a sense of realism and restraint", while the fourth, and equally important explanation of the good results accomplished is that the Commission's administrative methods "have safeguarded all essential rights and interests".

The author is optimistic as to the future of the Commission, though not unaware of the necessity of the maintenance of safeguards by keeping the personnel of the Commission on a high plane, by giving it ample financial support, by the avoidance of executive or legislative interference with administrative independence, by the courts continuing to limit review to questions concerning the legal powers of the Commission, and by the Commission's adherence to orderly procedure in reaching well-reasoned decisions. In this manner can the gains of past effort be retained and the needs of the future be met.

EMORY R. JOHNSON

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A History of American Political Thought from the Civil War to the World War. By EDWARD R. LEWIS. New York, The Macmillan Company, 1937.—x, 561 pp. $5.00.

In a volume that is clear, readable, compact with information, and balanced in judgment Mr. Lewis reviews the main currents of American political thought from 1865 to 1917. There is no attempt to treat international questions, but in a field of complicated economic issues and hot partisan controversies the book runs the gamut of political doctrine and fundamental concept. Besides being a history of thought it is a story of movements and in large part a résumé of constitutional law. It is on this latter theme (perhaps unfortunately) that the volume opens; the first 175 pages, nearly a third of the book, are devoted to the constitutional amendments which resulted from the Civil War. Thus the discussion of fundamentals is made to wait upon an examination of those changes which were written into the Constitution by Republican radicals during the abnormal period of confusion and rampant partisanship that was miscalled "reconstruction".

Of the three war amendments the greatest space is devoted to the fourteenth. The author does not concern himself with the amazing procedure by which the amendment was forced upon the South; nor does he mention the unique action of Congress (July 21, 1868) in taking over the promulgation of the amendment after the proclamation of the Secretary of State (Seward) had left the question of its proper adoption dangling in ambiguity. In the elaborate analysis of the purpose of the amendment and of its judicial interpretation, however, the discussion is full and penetrating. Conkling to the contrary notwithstanding (San Mateo case, 1885), the author concludes that the makers of the amendment "from first to last" were "primarily concerned with the condition of the freedmen" (p. 30), that the amendment was "primarily designed . . . to protect the negro in his civil rights" (p. 69), and that as late as 1882 Justice Miller doubted whether the amendment "would ever be applied to other than negroes" (p. 107). In the actual sequel, however, the use of the amendment to protect negroes has been "of slight effect" (p. 106); instead, the Supreme Court has given it an unexpected turn in the shielding of large corporate interests against public regulation by the states. In this process the author holds that the arguments before the courts were "political arguments" (p. 50)

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and that the court decisions have been "after all, discussions of political questions" (p. 109). In the vast field opened up by "due process", he says, "the element of personal judgment is much greater than in any other field of the law" (p. 113). Despite all this Mr. Lewis manages to deduce that the Court up to 1917 had shown a "liberal trend" (p. 106 n.); since then, he says, it has shown an "unfortunate tendency" in the non-liberal direction.

In the broader fields of political thought Mr. Lewis deals with the contributions of J. W. Burgess, W. W. Willoughby, Woodrow Wilson, Roscoe Pound, James W. Garner, J. N. Pomeroy, H. J. Ford, C. A. Beard, and (despite his Canadian and English connections) Harold J. Laski. He also reviews less known writers such as Orestes Brownson, Elisha Mulford, John A. Jameson, Brooks Adams, John Chipman Gray and James Coolidge Carter. For some unexplained reason he seems not to have used the writings of Charles E. Merriam that deal with basic political thought, nor does he cite Paul Lewison in dealing with the Fifteenth Amendment. Some of the chapter bibliographies (e. g., on problems growing out of the Civil War, pp. 174-175) are inadequate.

On elemental questions of the nature of sovereignty and the basis of authority the writer finds American thought "somewhat sterile and unoriginal" (p. 190). Considerations of the state as a person, of the limits of sovereignty, of the true power to change a constitution, of the Supreme Court's frustration of popular constituent powers, of the biological analogy of the state, of the significance of non-political entities (e. g., trade unions and religious bodies), and of economic pressure upon political rule are handled by way of thumbnail summarizations of selected writings, usually with an evaluating comment. He finds "much truth" in the view of Brooks Adams that law is the will of the dominant economic group, but, like the economic interpretation of history, he considers it "vastly overstated" (p. 221). A very high rating is given to Mr. Justice Holmes's insistence that law is socially purposeful and not a "changeless system"; and tribute is generously paid to the "wealth of study" that has characterized the writings of Roscoe Pound.

The latter part of the book is devoted to the progressive movement, conservatism (with its alleged allegiance to pioneer individualism and laissez faire), socialism, and the shifting struggle between nationalism and state rights. Throughout the whole volume the author realizes both the difficulty and the dignity of his task, to the

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performance of which he brings an attitude of scholarly detachment, skepticism concerning the adequacy of any pet formula, and awareness of the distinction between genuine reason and mere propaganda or rationalization.

J. G. RANDALL

UNIVERSITY OF ILLINOIS

Essays in Political Science, in Honor of Westel Woodbury Willoughby. Edited by JOHN MABRY MATHEWS and JAMES HART. Baltimore, The Johns Hopkins Press, 1937.—viii, 364 pp. $3.00.

Varied in subject matter and viewpoint, these essays suggest how diverse are the interests which Willoughby has stimulated and directed. He has not founded a school; more wisely and democratically, he has encouraged intellectual individuality and self-determination. As a consequence of his success, the book lacks unity. Moreover, since the authors, confined to a small space, for the most part have wisely devoted themselves to stating the results of scholarly reflection rather than to making new contributions to learning, the work is mainly important as a revelation of the current state of political science.

While it is divided into five parts, concerned respectively with Public Administration, Political Theory, the Scientific Method in Politics and Law, Constitutional and Administrative Law, and International Law—a division which further reveals the scope of Willoughby's influence—for purposes of criticism it falls into three main sections. The first is concerned with the general problems of modern politics and administration, and raises the question of the hopes for and values of democracy in a complex world demanding experience in its management. Dr. W. F. Willoughby argues that public administration is a science and so requires the development and use of techniques by experts, posits efficiency in operation as the end to be secured, and suggests that, *mutatis mutandis,* business methods of management and accountancy properly apply. In the following essay Dr. A. C. Millspaugh decries the efficiency ideal, praises the politician's art with its unordered and seemingly illogical compromises, and urges that administration must serve and not master the complex life of a democracy. Professor Harold W. Stoke raises doubts as to the adequacy of representative democracy because of that very complexity: in the conflict of interests the general welfare too readily gets forgotten and government becomes paralyzed. The only

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salvation is enlightened self-interest on the part of groups—and this may not be forthcoming. Professor E. Pendleton Herring agrees on the significance of underlying harmony and of toleration, admits the difficulty of preserving these in the presence of class struggle, argues that the politician must discover and promote the bases of coöperation, but suggests that party is not all-important. Democracy may be saved and rendered effective by politician, legislator, judge and administrator, all making the necessary dynamic adjustments of conflicting interests in their respective spheres.

Another section criticizes the practice of politics and administration in different fields, suggests the need for institutional planning, but also shows how the above differences in viewpoint are transferred to the field of practical judgment. Dr. Leon Sachs, Albert Langeluttig and Professor Charles G. Fenwick, discussing respectively multiple state taxation, the treatment of bankrupt corporations, and the gaps in international law, agree on the need for reform based on rationalization to produce efficiency, the foundation of justice. C. Walter Young, discussing the Lytton Report, acknowledges the importance of sound organization but considers the combination of scientific impartiality and an insistence on ethical principle of primary importance. Professor Herbert W. Briggs, analyzing punitive damages in international law, implies that the absence of intellectual nicety revealed by the confusions of judicial thought on that matter may be pragmatically and politically expedient.

The remaining section, concerned with the scope and method of political science, has extraordinary importance in view of the conflicts above revealed. Unfortunately here, too, there is no agreement. Professor Johannes Mattern condemns the theory of Geopolitik for its confusion of historical fact and desired ideal, which ends in the mysticism of the organismic and totalitarian state. Mattern's conclusion is that the "politologist" must study every aspect and every conception of the state and eschew particular explanations in simple terms. Permanent truths and values will be avoided as the illusions of finite beings. Professor Marshall E. Dimock urges the impossibility of a purely mechanistic and descriptive social science and the inevitability of purposes and values, and insists that measurement of institutions by their workability involves judgments. Yet he condemns imposed schemes which ignore the facts of experience and arise from a desire for premature simplicity; the only worth-while systematization is a gradual growth which does not result in foolish exclusions and a rigid pattern. Finally, Pro-

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fessor Walter Wheeler Cook suggests that in law, as in the social sciences generally, little progress is made because of an extreme emphasis on the immediately practical. In the pure sciences many of the greatest discoveries have been made by the curious, who have concentrated on problems rather than on products, and the same would probably be true in law. As it is, we fail to examine the assumptions underlying our activities, novel fields remain undiscovered, actual reforms frequently prove abortive, and much practical enrichment is lost by over-investment in the things of Martha. With this judgment the present reviewer is constrained heartily to agree.

THOMAS I. COOK

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Chief Justice Waite. By BRUCE R. TRIMBLE. Princeton, Princeton University Press; London, Humphrey Milford, Oxford University Press, 1938.—ix, 320 pp. $4.00.

Mr. Trimble has written an account of a judge whose biography should have been available long ago for the use of students of the development of the Constitution. Chief Justice Waite presided over the Supreme Court of the United States from 1874 to 1888. When appointed to the position by President Grant he had not participated directly in national affairs except for his part in the Geneva Arbitration, and had never appeared before the court over which he was to preside. He never achieved the prominence of Marshall and Taney, and perhaps other predecessors on the court. The nature of his influence was important, however, and during his period the court handed down a number of strategic decisions representing constitutional adjustments to business and industrial change.

Waite was never greatly concerned with mathematical exactness in the interpretation of legal categories. Although the author gives "Craftsman of Due Process" as the title of one of his chapters, he illustrates from vague, and at times conflicting, remarks the frankly unsettled meaning of the due process clause as a restriction on state legislatures. Waite brought to the fore the concept of "public interest" to justify state regulation of certain types of business, but he predicted that the definition of the limits of the doctrine would be "the great difficulty of the future" (p. 188). He appears to have been concerned not so much with the symmetry of the law as with the achievement of what he conceived to be justice. He declared (p. 298) that when justice required a particular decision he could usually find a reason for it.

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Waite cannot be fairly classified as either a nationalist or an advocate of state rights. Rather, in controversies involving the struggle between laissez faire and government control he opposed the use of constitutional provisions to curb unduly either state or national activities. "Where there was a conflict between the government, either state or national, on the one hand and individuals or corporations on the other, the will of the latter was required to give way to the former, unless there was unmistakably a violation of a vested right and every doubt was resolved in favor of the government" (p. 230). In this respect he was in a sense the successor of Roger B. Taney, and the forerunner of the liberal group on the Supreme Court today.

The book stands up well on the whole in comparison with other studies written in part to meet academic requirements. There is a lack of deftness and verve and imagination in the selection and use of materials, however, which is to be deplored, even if the fault lies more in methods of higher education than in this particular author. The treatment is at times labored rather than facile, and some documents quoted seem to justify a richness of interpretation not here accorded to them—as for instance the letter from Waite to Field concerning the desire of the latter to write the court opinion in a case involving the interests of the California railroads (pp. 261-62).

A more definite if less important criticism seems justified. While one function of the research scholar is to create syntheses of new and significant materials, another is to guide other scholars to the newly discovered source materials themselves, whenever possible. Mr. Trimble speaks of access to "several thousand hitherto unpublished letters" (p. viii), but quotation is necessarily limited to a small percentage of them. He lists the private papers and letters of Chief Justice Waite, along with other collections. He does not tell where these papers and letters are to be found, however, and in citing individual letters he does not indicate whether they were found in one or the other of the collections listed, or among the few Waite letters scattered among libraries and historical societies which are not mentioned here. However carefully he may have chosen his quotations, other authors cutting across the field of his research will hesitate to trust his judgment completely in the selection of materials worth printing, and will regret that signposts leading more directly to the sources have not been provided.

CARL BRENT SWISHER

THE JOHNS HOPKINS UNIVERSITY

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Victorian Critics of Democracy. By BENJAMIN E. LIPPINCOTT. Minneapolis, The University of Minnesota Press; London, Humphrey Milford, Oxford University Press, 1938.—x, 276 pp. $3.75.

This is a timely volume in the best sense of the word. According to the author the chief question today is "whether propertied interests will rob common men of their chief weapon of defense against exploitation, democracy." His book is a study of the anti-democratic views of influential writers in Victorian England in order to give a historical background for present reactionary trends. The writers that he treats are the "prophets" Carlyle, Ruskin and Matthew Arnold; and the "technical critics", James Fitzjames Stephen, Maine and Lecky. Their views are presented clearly and authoritatively and with an ever-present consciousness of current problems. The anti-democratic writers, selected by the author, constitute a good choice with the possible exception of Arnold whose "anti-democratic" opinions consisted of severe condemnation of rioting. Arnold condemned laissez-faire capitalism and favored political and economic equality which he fervently believed could be brought about by popular education. If anything Arnold's views smack of the New Deal.

There are certain common attitudes that characterized the Victorian enemies of democracy as they characterize the enemies of democracy today. One was a distrust and contempt of the common man as being incurably riotous, envious and irrational. Hence he should be disciplined and kept in his place by those above him. Another was that democracy resulted in attacks on property rights and would inevitably lead to socialism. Hence, according to the fascistically minded then and now, it should be abolished and government placed in the hands of strong rulers backed by the propertied classes; or, according to the more moderate critics, democracy should be rigidly excluded from interfering with the economic system and limited to the protection of civil and political rights.

The most outstanding critic of democracy in Victorian England was Carlyle who is revealed as a fascist in all but name. Carlyle denounced parliamentary government, advocated "rule by the hero, the man of action who must not hesitate to use force", ridiculed humanitarianism, opposed the abolition of Negro slavery, and favored industrial regimentation along military lines. His diatribes against "materialism" and against laissez-faire capitalism have a distinc-

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tively fascist ring. Carlyle's "flashes of insight" consisted chiefly in grotesque ridicule of the liberal French philosophes and of the English Utilitarians and in exaggerated praise of militarists like Frederick the Great and Cromwell. Though widely read in his day he has since, in England, become largely an unread "classic". Not so, however, in Fascist Germany and Italy, where translations of his works now have a wide popularity.

Ruskin's ideas, whenever he had any, were a sentimental version of those of Carlyle. He had a nostalgia for monarchy (old style), but tempered by a new feudalism that included the capitalists along with the aristocrats who would guide the monarch in the way of social salvation.

Stephen, Maine and Lecky regarded the England of the period 1832-1867 as a sort of political Golden Age when the rich, the well born, and the enlightened controlled the government. Stephen had an "unqualified hatred for revolution and revolutionists" with which he identified democracy. To Maine private property was the all important institution, and he greatly admired the American constitution because of its strong defenses of property rights. Lecky's constant dread was that democracy would lead to socialism. After the Reform Bill of 1867 he saw "collectivism" superseding laissez faire and, as Mr. Lippincott declares, he wrote "as a man stirred to anger by the threat of insecurity." As Stephen and Maine grew older their fear and distrust of the masses became ever greater, and they finally ended by becoming "fellow travelers" of Carlyle. Not so Lecky whose liberalism, being the reasoned philosophy of a scholarly historian, was made of sterner stuff. His hostility to democracy did not lead him to reaction but to sharper criticism of democratic policies.

Nothing is so startling as familiar facts and ideas seen in a new light. Mr. Lippincott deserves great credit for presenting the long familiar ideas of the Victorian critics of democracy in the light of the present crisis. He is a stout defender of democracy and makes the sound observation that what is wanted of the common man is not comprehension of intricate fiscal problems but "judgment of a general character in regard to party programs or the policy of a government." Experience in the past has proved that the common man's judgment of fundamental social problems has been better than that of absolute monarchs. The future may yet prove that it is better than the judgment of dictators.

J. SALWYN SCHAPIRO

THE COLLEGE OF THE CITY OF NEW YORK

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History of the State of New York. Edited by ALEXANDER C. FLICK. Volumes VII-X. Published under the auspices of the New York State Historical Association by the Columbia University Press, New York, 1935, 1937.—xiv, 385; xiv, 381; xv, 390; xii, 484 pp. $5.00 per volume but sold only in sets of 10 volumes.

The completion of the *History of the State of New York* is an important event in American historiography. It furthers the thesis that local history is an indispensable adjunct to national history. It is the counterpart in historical writing of that regionalism which for more than a century has manifested itself in American literature. It is the most ambitious of state histories and also the best. It is certain to have a strong influence upon histories of other states which will follow it. For this reason, if for no other, the method of the series must be the first consideration of any review.

Dixon Ryan Fox, writing as president of the New York State Historical Association, announced in a foreword the objective of the work. "The State of New York," said President Fox, "having a great history, deserves a good *History*. None heretofore has covered the whole stretch of time, none even in a particular era has covered the whole range of human interests. In the ten-volume coöperative history which the New York State Historical Association is producing, due and proportionate attention is paid to such human concerns as religion, literature, and the other arts, social customs, professional development, education, agriculture, business, labor, racial stocks, etc., as well as the more conventional staples of history." In other words President Fox announced that the association of which he was the head included, as was the wont of historians of an earlier age, the whole range of human life within its definition of history.

To the State Historian, Dr. Alexander C. Flick, was given the task of directing the campaign to achieve the announced objective. It was a campaign requiring no little courage on the part of the commander-in-chief. After the decision that the work should be a coöperative the first problem was as to whether the time line, of something more than three hundred years, should be broken into ten segments with each alotted to an author. This was the form of the *Centennial History of Illinois* and also of *The History of American Life*. Such a plan, if considered, was rejected. Such a scheme would have labored under the difficulty of finding historians competent to handle the multifarious aspects of a complex civilization and of persuading them, if found, of the importance of invest-

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ing considerable amounts of time in what was essentially a local enterprise. Another objection to such a plan is the difficulty in developing a single topic in a consecutive and orderly fashion through several volumes. Dr. Flick divided the subject matter which he wished to include in his history into ninety-nine essays, ten for each volume save the last in which the position of what might have been the hundredth essay is taken by an elaborate index for the series. Approximately thirty-five pages are allowed each essay. The *History of the State of New York* is, therefore, a mosaic of discrete studies fitted into a pattern by the editor.

A second problem was that of proportion. An analysis of the material contained in the six volumes dealing with the post-Revolutionary state shows seventeen essays devoted to political history, fourteen to economic history, and eight and ten respectively to social and to intellectual history. There are occasional essays, such as that most interesting study by the editor himself of New York place names, which are not easy to classify. These proportions upon first consideration seem reasonable but a closer analysis reveals certain unfortunate implications.

One of the more serious defects of the series appears in the essays allocated to religion in the post-Revolutionary state. There are three of these, one each dealing with the Protestants, the Catholics and the Jews. The author of the essay on Protestantism attempts to include not only the history of the recognized sects but also mentions Mormonism, the Millerite movement, the spiritualism of the Fox sisters, and the perfectionism of John Humphrey Noyes. The resulting compression of a complicated story becomes an almost valueless catalogue. The author of the history of a single church, the Catholic, has opportunity to make a less hurried and hence more valuable presentation. Turning to the third in the religious trio, the reader is astonished to discover that the essay on the Jews makes no pretense of dealing with that interesting and important subject of Jewish religious history in America. The study surveys the increase in number and importance of Hebrews in New York State and concludes with a long list of individuals who have made contributions to the life of the state. In this list, which includes Al Jolson and Eddie Cantor, not a single rabbi is mentioned. The analysis of these three studies purporting to deal with religious groups suggests that the method of presenting history through a large number of discrete essays can be very inflexible, not to say embarrassing.

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A survey of all the essays which the reviewer listed as falling into the category of intellectual history disclosed the fact that almost universally they present the husks rather than the kernel. The essence of intellectual history is ideas. The articles in the series largely ignore the origin, development and clash of theories and beliefs. The historian can hardly expect to present the importance of Christianity for the civilization of the Empire State by merely recounting the fortunes of religious denominations. Christianity affects the whole structure of the thought of an age. The method of brief, discrete essays makes it impossible to trace adequately the importance of Christianity for a particular climate of opinion or social scene.

A consideration of the essay on art raises similar questions. This chapter is chiefly useful as a catalogue of names. It contains faint suggestions of the hopes and ideals of the artists. The rigidity of the method of discrete essays compelled the author of this chapter to attempt an impossible task. In this case the space could have been doubled by cutting down elsewhere. Because such adjustment was not made, the *History of the State of New York* presents as of equal importance, in terms of space allocated, "State Politics from Cleveland to Sulzer" and "The History of Art in New York State", where is to be found, by the way, the most important art center in the western hemisphere. It should be added, however, that there are many who would consider this apportionment a just estimate of the significance of art in the materialistic civilization of America.

The authors of the essays have been selected with obvious care. Most of these are professionals, including one professional patriot. The amateurs invited had, for the most part, already demonstrated their competence to undertake the particular tasks assigned them. With negligible exceptions the quality of the essays, within the limitations already discussed, is high. This result, however, should not be attributed chiefly to the fact that the authors are trained or are professionals. The phenomenon of a nearly uniform high quality of ninety-nine historical essays does not occur in a state of nature. It suggests a competent, tactful, diligent and determined editor.

The method of discrete essays precludes the possibility of effective synthesis or significant interpretation, but the series is a magnificent compilation of information about the history of the state of New York. It is magnificently published. No American historian who is studying the general life of the nation can afford to ignore it.

RALPH HENRY GABRIEL

YALE UNIVERSITY

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A History of the Business Man. By MIRIAM BEARD. New York, The Macmillan Co., 1938.—viii, 779 pp. $5.00.

This is a well-written book apparently intended primarily for the intelligent layman. Its pages, crowded with detail and apt quotation, are never dull, and they flow beneath the eye with a rhythm and grace that bespeak high ability and great care on the part of the writer. The sophisticated student will find little that is new in the volume; even its wealth of specific quotation and similar detail is largely lost to him by reason of a complete absence of footnote citations and a lazy index. (Apparently Miss Beard simply told some one to go through the page-proof and index all proper names. She should treat herself to a view of Clapham's admirable indexing of his similarly compact volumes.)

While the book gives no impression of deliberately gold-plating its subject or even of sparing unsavory details, it leaves one wondering whether Miss Beard is cannily taking advantage of the business man's current need to rehabilitate himself in his own and others' opinion. The opening sentence notes the absence of a history of the business man and the latter's "still more curious" unconcern in the matter: "For history is a potent weapon, and a man who lacks one nowadays may be said to go unarmed. The conclusion all too readily drawn by the public is that he has a story to hide." Miss Beard goes on to note the lack of annals and a mythos by which the business man might increase his stature: " . . . as a class, business men have been in a sense the victims of their virtues. They have not sacrificed others like tyrants or themselves like saints; through the stormiest ages they were the carriers of morality, the representatives of thrift, temperance, reticence, hard work, domesticity and other qualities which wearied instead of thrilling readers." As the book moves along from "The Heritage of Antiquity" and "The Patrician City-Ruler" to the closing section on "The Big Business Man" with its final note of "business in search of credo", it seems to provide a reassuring symbol of the dignity and strength of business. Thus, as the prestige of capitalism and its folklore goes down in Thurman Arnold's elevator, it is here picked up and again carried aloft by Miss Beard.

From a more fundamental point of view this kind of venture into history-writing deserves the attention of social scientists. It is a very modern type of history in that, instead of taking a past era as its subject, it deals with a current social phenomenon of great impor-

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tance, seeking to set forth its genesis over time. And yet it involves the massing of facts about a topic rather than the analysis of a problem. One can imagine an endless series of similarly titled books: "A History of Kings", "A History of the Politician"—and so on and on. But history without problems degenerates from social science to a literary type of cyclopaedia. Data are only data. They may be learned, they may be flourished about to import dignity, or they may be used to understand and to solve problems that beset man. Only the last use is "social science". We confront today a world for which Karl Marx has posed the acute problem of the allegedly inevitable rôle of the business man as instigating agent in the struggle of classes, and for which Veblen has posed the problem of the business man as *saboteur* of society's utilization of its technical knowledge. It would appear to be problems of the order of these on which social science needs work by historians of the business man, rather than more books like Miss Beard's.

ROBERT S. LYND

Japan in China. By T. A. BISSON. New York, The Macmillan Co., 1938.—xii, 417 pp. $3.00.

Mr. Bisson's theme is the origins of the China-Japan war and the first phase of the war itself. He construes origins in the narrow historical sense, analyzing the events just preceding the war rather than the long historical evolution of the larger international conflict in the Far East. But this he does uncommonly well. He was in China and Japan for some months before the war began and in North China itself in the first months of the conflict. Not only from direct observation, but by careful method in working with documentary evidence, he builds up a consistent and convincing picture of the making of the war. Though emotionally weighted on the Chinese side, it is without bias. Mr. Bisson's partisanship is unconcealed, but he writes without prejudice and tries to support his partisanship with evidence.

Mr. Bisson begins with a detailed examination of the responsibility for the outbreak of hostilities—the circumstances surrounding the skirmish on the Marco Polo bridge outside Peiping. He finds for Japanese guilt, and not only is his evidence skillfully marshalled but his reasoning is confirmed by that of other observers on the scene at the time. Here follows a résumé of Japanese penetration into North China from the occupation of Manchuria through the attempt

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to set up an "autonomous" régime in North China, an attempt that never came off in its entirety but that did succeed far enough to drive a Japanese wedge into the country. North China never became autonomous—that is, ruled by puppets of the Japanese army—but it ceased to be ruled as independent Chinese territory. It was this attempt that fired the latest phase of Chinese nationalism, a defensive, desperate nationalism. And it was this counterposing of nationalistic desperation and the unrelaxed Japanese thrust for conquest that made some sort of collision sooner or later inevitable.

The collision came, and into the conflict that resulted China entered as a unified nation for the first time in a generation and Japan as a nation highly organized but already somewhat drawn from the strain of its Manchurian adventure and the attendant international complications, including an armament program that its resources could barely sustain. Mr. Bisson makes a careful assessment of political and economic forces within Japan—of the military ascendancy, the drift toward quasi-fascism, the resulting impacts on both the internal organization of the country and its external expansionism. He attempts to measure the resources which each side brings to the conflict—resources mainly moral on the Chinese side and technological and military on the Japanese side. Like many other neutrals who have studied Japan in recent years, he is doubtful of Japan's success. For all Japan's superior equipment he thinks it cannot emerge victorious in the end and is doubtful whether it can even in the beginning; and he makes a strong case for his position. Mr. Bisson deals with facts rather than ideas, but the book deserves the careful consideration of students of the Far East.

NATHANIEL PEFFER

COLUMBIA UNIVERSITY

A History of Argentina. By RICARDO LEVENE. Translated and edited by William Spence Robertson. (Inter-American Historical Series.) Chapel Hill, The University of North Carolina Press, 1937.—xiii, 565 pp. $4.00.

This volume is the first of a series of translations designed to present to the English reader the text of an authoritative work, by a native scholar, on the history of each of the Latin American countries. The project is under the general editorship of Dr. James A. Robertson, editor of the *Hispanic American Historical Review.*

The work selected to inaugurate the series is Ricardo Levene's *Lecciones de Historia Argentina,* a text for secondary schools which

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was first published in 1915. Considerably revised, it has since appeared in many editions, which shows its great popularity.

Professor W. S. Robertson, with his customary meticulous care, has done an admirable piece of work in translating and editing the history, which, although a school text, lent itself to translation for the general reader. In general, the long footnotes of the Spanish have been suppressed. Further, the first three chapters of the original have been omitted and replaced by the translator's brief introduction. Closely following the Spanish text, the English version presents a smoothly-reading story. The carefulness of the translation is shown by an extensive comparison in which only two errors were discovered: *vencido* (p. 205) is the loser not the victor, and *impotencia* (p. 315) is impotence, not importance.

Levene's volumes are written with an emphasis on the democratic processes in the development of Argentina. He even finds the roots of democracy and the tendencies toward independence evident in the Spanish colonial period. The account of this period to 1810 occupies 202 pages and is an excellent survey of Spanish colonization and administration in the southern part of South America. Because of its importance in relation to after events, the ten years of the struggle for independence (1810-20) receive proportionately the most extended treatment (157 pages.) The first years of the republic and the dictatorship of Rosas (1820-50, 175 pages) and the establishment of the constitutional régime (1851-80, 54 pages) are given a smaller relative share of space than the period of independence. Finally, the contemporary period since the consolidation of the federal government in 1880 is dealt with in a more summary fashion, probably because of the political factors involved.

The story of the political administration and military achievement is carried through the work, but interspersed at opportune points are chapters on institutional, economic, judicial, ecclesiastical and intellectual development; foreign relations since the establishment of the republic receive special treatment. There are a number of maps and illustrations which add to the value of the book. The editor has supplied an index which is a guide to the vast amount of information in the volume. The excellent format continues the creditable work of the University of North Carolina Press.

Professor Robertson has set a high standard for the series, which, if carried forward by other able scholars, will become indispensable to the student of Latin American history.

Roscoe R. Hill

The National Archives

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Gustav Stresemann: His Diaries, Letters, and Papers. Vol. II. Edited and translated by ERIC SUTTON. New York, The Macmillan Company, 1937.—xix, 549 pp. $6.50.

It is pleasant to be able to welcome this second volume of Stresemann papers two years after the appearance of its predecessor. Following a brief foreword on Stresemann's foreign policy, by the capable and sympathetic editor, the book, which roughly covers the years 1925-1926, falls into three parts. The first part is concerned with the evacuation of the Cologne Zone in the Rhineland, the death of President Ebert and the election of President Hindenburg, and the inception and negotiation of the Locarno Pact. There is a highly interesting characterization of Ebert, whom Stresemann regarded as having been "inwardly incapable of an act of treason" and equally "incapable of doing anything for his personal advantage." Of Hindenburg, the foreign minister wrote in his diary, following his first interview with the new president: "Broadly speaking, I had the impression of a man who had grown up in conservative traditions and made no concealment of the fact . . . but who thinks constitutionally, and in any event has the intention of dealing honorably and candidly with the Government. . . . The main point is to see that irresponsible people do not acquire an influence over him." The section devoted to the diplomacy of Locarno includes the entire and hitherto unpublished, though hardly spectacular, diary kept by the German Foreign Minister from October 2 through October 16, 1925.

Part II is devoted largely to Stresemann's literary and intellectual interests. It includes numerous speeches and written comments relating to German development in general, German society, diplomacy, German emigrants, Goethe, the parliamentary systems of Great Britain and Germany, political party strife, music, spiritual coöperation, and so on. There is a long and interesting speech on world economics and autarchy, in the course of which Stresemann said: "In the last resort, the development of our whole economic position will remain dependent on the development of international affairs. As there is only one foreign policy that strives to protect the vital interests of the German people, and aims at peace and peaceful development, the main lines of a foreign policy cannot be altered by a popular vote on internal affairs." While comparing the British and German political systems, he said, on another occasion: "A very impolitic quality of the German people is that it can be made happy

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by a programme. When the German has drafted a resolution he is completely happy. . . . In our country everyone thinks he is alone in the world, and that he can, as a child would do, write down on his Christmas list everything he wants to get in the course of his life. Thus they think that they can write down on just such a list all that they . . . could wish for our country; and that those who cannot achieve all this at one single Christmas are politically damned." This section of the volume reveals how difficult a dissatisfied nation made it for a liberal, middle-class patriot of monarchist sympathies who sought only to steer a middle course for the good of the whole Fatherland.

The last part of the book, entitled "Germany and the Powers", is devoted to the relations between Germany on the one hand, and France, Belgium, Italy, the Soviet Union and Poland on the other. Everywhere Stresemann sought to establish or renew friendships. It was a measure of his success when the critical Prince Bülow wrote him from Rome, in April 1926: "Since you have taken over the foreign affairs of our country, our relations with all our late enemies have improved. Every patriot must hope that . . . you will long continue to conduct our foreign policy." Finally, there is considerable material relating to Germany's entry into the League of Nations. When, after much unsavory diplomacy on the part of Stresemann's foreign colleagues, success was achieved in September 1926, the German Foreign Minister said: "Of all the nations here [Geneva] assembled we may use the words of a great thinker—that we men belong to the race that is striving from darkness into light." Only a dozen years have passed since then.

WALTER CONSUELO LANGSAM

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BOOK NOTES

In a period when the menace of Nazi *Kultur* hangs heavy over the world, dark with threats of doom, any work from the pen of a distinguished representative of German culture is more than welcome in the West. When the work in question assumes the form of a brilliant reaffirmation of faith in the democratic way of life, and when the author is the most famous living spokesman of German letters, enthusiastic rejoicing is in order. The little essay by Thomas Mann—*The Coming Victory of Democracy* (translated by Agnes E. Meyer; New York, Alfred A. Knopf, 1938; 67 pp. $1.00)—is an expansion of a lecture which he delivered throughout the United States during the winter and spring of 1938. It is a literary *tour de force* of the first order. It is also without question one of the most effective bits of liberal propaganda which have yet appeared in an epoch of retreat and defeatism. It will not reconvert those who have abandoned the fold. But it will sway doubters and strengthen the hearts of those who never doubt, however dark the day. That this essay should also be a significant contribution to political science is a tribute to the genius of the author. He is not primarily concerned with the metaphysics of the State nor with the machinery of government. His point of departure is the dignity of human life and the fruitful heritage of freedom which is everywhere threatened with extinction at the hands of the apostles of fanaticism and violence. Here is a closely reasoned analysis of the human implications of that heritage and an eloquent call for its defense. Thomas Mann perceives, as few champions of liberalism have perceived, that fascism is not merely a denial of democracy but an atavistic resurrection of tribalism and savagery in modern dress and a repudiation of all the values which have given Western civilization its right to life. Any summary of Mann's carefully chosen words would be futile. This little volume must be read, not reviewed. Suffice it to say that the reader will find here an acute diagnosis of the psychology of the new Caesarism, a profound insistence upon the worth of the individual and a merciless exposure of the ideological and moral corruption of fascism. The optimism in the title is not that of a bewildered liberal whistling in the graveyard.

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It is that of a robust thinker fully aware of all obstacles, mistakes and dangers. The author of *Buddenbrooks,* of *The Magic Mountain* and of *Joseph* asserts that liberalism's survival depends upon its spiritual rebirth and upon its ability to translate its democratic aspirations into economic and social terms consonant with modern industrial life. He has hope and faith in these accomplishments. His faith may be vain and his hope may be too late. But all men of good will should derive inspiration from his appeal and determination to pay whatever price must be paid in order that a free civilization may, if possible, save itself from the new barbarians.—FREDERICK L. SCHUMAN, Williams College.

Recent monetary experiments have opened the gates to a flood of argument covering the vast fields of gold, silver, currency, credit, foreign exchange, stabilization and so on. The increasing importance of the dollar, both as affected by and affecting world economics, has challenged business men and statesmen, politicians, theorists and historians. Professor John Donaldson of George Washington University is one of those accepting the challenge. In a symposium published by the Institut für Weltwirtschaft early in 1936 he briefly presented dollar devaluation; and subsequently, extending his survey through the tripartite agreement of late 1936, he wrote *The Dollar: A Study of the "New" National and International Monetary System* (New York, Oxford University Press, 1937; xix, 271 pp. $3.75)—a cautious summary of theoretical and practical trends in dollar discussion, policy and behavior. The principal monetary measures adopted in the United States since 1932 are sketched, with suggestions concerning motives and objectives involved; some leading theories are discussed; internal effects of the measures are presented, with reference to credit, currency, commodity prices, cost of living, wages, securities markets, debtor-creditor relationships and national income. Then the international background is surveyed; and the international effects of dollar policies are discussed with reference to trade and foreign exchange, gold and capital movements, commodity prices and the balance of international payments. The book closes with a summary of the new arrangements for international stabilization; and the whole is laudably temperate and detached, albeit awkwardly phrased. The author demonstrates, with the aid of 33 statistical tabulations, that the old, classical theories on money no longer apply (if ever they really did) and that the new ones require continual modification, because the mobile factors are so numerous, far flung and elusive as to defy satisfactory measurement.

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Since money in terms of human experience is hard to define, he who ventures upon monetary conclusions does so at his peril. But the author is not wholly baffled. Apparently many nations are convinced that flexible, managed currencies have given them some benefits which the rigid gold standard denied them; they may well prefer to continue to employ flexible, rather than rigid, instruments in their struggles for stability.—JEANETTE P. NICHOLS, Swarthmore, Pa.

China and the World War (Stanford University, Stanford University Press; London, Humphrey Milford, Oxford University Press, 1937; x, 278 pp. $3.25) by Thomas Edward La Fargue deals in a comprehensive and scholarly manner with a critical period of Chinese history. The author has shown great perspicacity in detecting and assessing correctly the various cross-currents, internal and international, which then affected the course of the Chinese government. China would naturally have remained neutral, but was almost friendly to Germany. While Germany had led in the scramble for concessions in 1897, and though German troops had probably acted more harshly than any others during the Boxer war, both German merchants and German officials had subsequently shown a more intelligent interest in cultivating friendly relations with Chinese than the people of any other nation. They were more enterprising and gave better facilities, in credits and otherwise, to their Chinese customers than the old British firms. There were few troublesome diplomatic questions between Germans and Chinese, and the Chinese had come to respect German prowess in science and in military affairs. With all the leading allies, however, China had difficult border problems, and Japan was beginning to be feared and hated as the nearest and most interested of the aggressive foreign powers. Already in 1913 Japan had given aid and comfort to the Kuo Min Tang, then in rebellion against President Yuan Shih-k'ai, the same party which has now become in turn the chief object of Japanese hostility, and probably for the same reason, that it bids fair to unify the country and fortify it against further foreign aggression. The Twenty-one Demands of 1915 intensified Chinese suspicion of Japan and her allies. Mr. La Fargue has given an excellent account of this affair, though I should differ with him as to the reality of Japan's inferiority to the other powers in the struggle for trade and concessions. Japan's rights in Manchuria were far more extensive than those enjoyed by other powers elsewhere, and she had gained in the British sphere such privileges as the control of the iron mines at Tayeh and the financing of the Kiukiang-Nanchang railway, which she would

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never permit others to acquire in her sphere. American pressure, perhaps unwisely administered, as the author believes, brought China into the war on the side of the allies. He holds, however, that the result in China's eventual recovery of Tsingtao and the German Shantung railway at the Washington conference justified her action. This, the generally accepted view, tempts speculative challenge, for it also brought strength to undesirable internal factions and increased the points of friction with Japan. Mr. La Fargue's book would have been still more useful if it had shown a wider survey of Chinese and Japanese language sources. Only one text is quoted in Japanese and none in Chinese.—ROGER S. GREENE, Worcester, Mass.

A misleading title has been chosen for *Aliens in the East: A New History of Japan's Foreign Intercourse* (Philadelphia, University of Pennsylvania Press; London, Humphrey Milford, Oxford University Press, 1937; vii, 360 pp. $3.00) by Harry Emerson Wildes. The "East", which ordinarily denotes a hemisphere, is limited to the islands of Japan, with some reference to the Loochoos and Korea; and the volume is by no means a history of Japan's foreign intercourse. In fact the study ends with 1868, when Japan's real intercourse with the West had scarcely begun. For almost a hundred years, from 1543 to 1638, Japan had commercial and diplomatic relations at different times with four European nations. Then, for over two hundred years, commercial relations were confined to the Dutch, on terms which the Japanese set down and which the Dutch accepted. The signing of the American treaty of 1854 inaugurated a new era of enlarged foreign intercourse. It would appear that a study of Japan's foreign relations even down to 1868 would devote most attention to the two periods in which there was real intercourse, rather than to the two centuries of seclusion during which every Westerner, save the permitted Hollanders at Nagasaki, visited Japan, by accident or design, in violation of the known laws of the land. But Mr. Wildes glides over the first century (44 pages) for which a mass of material remains to be digested, presents a fantastic version of the last period (81 pages) on which the published sources might have modified his treatment, and devotes almost two thirds of the volume (212 pages) to the years of non-intercourse. In these pages he makes a real contribution, but a very unbalanced one, because he has found and presented many bits of information about some of the mariners who touched upon the Japanese coast. But a work which accords more attention to the exploits of an American skipper who merely visited a Japanese port than to the observations of the

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long-resident von Siebold would seem to be more interested in curiosa than in sound historical presentation. During the period of non-intercourse unlawful visitors were treated with severity, a severity laid down by law and impartially administered. From these incidents the author concludes "Japan has never liked the foreigner." His conclusion may be sound enough, but it should not rest upon such evidence. For the new information which Mr. Wildes has brought together every student of Japanese history will be grateful, even though he may not approve of the use which is made of the material. A considerable bibliography attests to the research involved, but the lack of citations is regrettable.—PAYSON J. TREAT, Stanford University.

In *Migrant Asia: A Problem in World Population* (Series III, Vol. I, del Comitato Italiano per lo Studio dei Problemi della Popolazione. Rome, Tipografia I. Failli, 1936; xlv, 310 pp. Lire 30), Professor Radhakamal Mukerjee presents the Oriental view of the problems arising from the pressure of population in the countries of Asia and the resulting conflict of Occidental and Oriental peoples for the possession of the earth. He believes that the great populations of Asia cannot indefinitely be held back on a fraction of the earth's surface; and he questions "whether a country has the right to keep fertile lands as barren reserves until its natural increase of population is sufficient to exploit its resources, especially when such resources are vast, and there are industrious peoples in overcrowded regions ready to exploit them." He thinks the world needs a better appraisal of the Asiatic's standard of living and standard of working; that the existing wide contrasts in social and economic standards cannot persist in the face of increasing intercommunication; and that the continued low purchasing power in the East will affect the prosperity of the Euro-American industrial system. He suggests that the artificial barriers between the overpopulated and underpopulated lands create zones of danger for world peace. He believes that a permanent solution of the population and agricultural ills of the world lies in a freer Asiatic migration, and he proposes the ultimate development of an International Migration Code, operated in connection with the League of Nations, and with universally compulsory standards of selection directing the flow of migration according to the diverse economic needs of each country and the special skill of the migrants. If this solution seems idealistic and remote, the study itself is concerned with very real issues. It is, in fact, a comprehensive survey of the history of Asiatic migrations,

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the direction and volume of those migrations, the problems arising from indentured and contract migrant labor, race prejudice and racial antagonisms, problems of land settlement for the migrants, the agriculture and food supply in the immigrant countries, the resources available in the less populated lands, disparity in population growths between over- and under-populated areas, disparity in density, disparity in living standards, diet, metabolism, food and energy requirements. Because these facts are presented from the Oriental viewpoint, challenging some of our most cherished Occidental concepts, the book makes stimulating reading and is well worth the attention of Occidental scholars.—JOHN E. ORCHARD, Columbia University.

Limits of Land Settlement: A Report on Present-Day Possibilities, prepared under the direction of Isaiah Bowman (New York, Council on Foreign Relations, 1937; viii, 380 pp. $3.50), is the third, and concluding, volume of the study in pioneer settlement, which Dr. Bowman inaugurated while Director of the American Geographical Society. The first volume was *The Pioneer Fringe* (1931) by Dr. Bowman himself; and this was followed by *Pioneer Settlement* (1932) prepared by twenty-six authors, each personally familiar with the area he discussed. Both volumes were published by the American Geographical Society. This final volume was under the financial sponsorship of the American Coordinating Committee for International Studies for the Tenth International Studies Conference. After an introduction by Dr. Bowman, C. O. Sauer, of the University of California, discusses (pp. 7-24) the prospect for the redistribution of population. Next C. L. Alsberg, Stanford, treats of the function of the food supply in the migration process (pp. 25-56). W. A. Mackintosh, Queens University, devotes thirty pages to consideration of Canada as an area for settlement. Population factors in Soviet Siberia are discussed by Bruce Hopper, Harvard; and Owen Lattimore follows with a survey of the mainsprings of Asiatic migration. H. S. Chen, of the Institute of Pacific Relations, next treats of the present prospect of Chinese emigration, while Charles J. Pelzer covers Japanese migration and colonization. These three sections are of great interest, but will likely need some revision when the present upheaval quiets down. Griffith Taylor, of the University of Toronto, devotes thirty-two pages to the consideration of the possibilities of settlement in Australia; while J. H. Wellington, of the University of Witwatersrand, devotes twice that space to a similar consideration of Africa, most of his data applying to South and Central Africa.

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Quite appropriately, Dr. Bowman himself contributes the section on possibilities of settlement in South America, some forty-four pages. K. J. Pelzer has compiled a bibliography under topical heads—such as acclimatization, migration, population, settlement—as well as by countries. The variation in treatment by the different authors is interesting; Mr. Chen, for example, devotes much attention to the legal, economic and social status of Chinese emigrants in the various regions, while Mr. Taylor is concerned with what Australia has to offer the immigrant in the way of physical and agricultural resources. —T. T. READ, Columbia University.

A book on colonial administration which fills a definite need—*Native Administration in Nigeria* (London, Oxford University Press, 1937; xii, 404 pp. 17s. 6d.) by Margery Perham—is worthy of serious attention. The growing opposition to white supremacy has been a characteristic trend during the post-war era and has directed increasing attention to the problem of colonial government. The growing popularity of indirect rule has been a most promising development in this important field of political and social relationship. The publication of *The Dual Mandate in British Tropical Africa* by Sir (now Lord) Frederick D. Lugard in 1922 was the first attempt to describe the principles of this method of imperial control. Miss Perham has been closely associated with Lord Lugard for many years; she spent several months in Nigeria to study the system at close range and is properly regarded as an outstanding authority. The first part of her treatise describes the process by which the British established their supremacy in Nigeria; the second part deals with the Nigerian system now in operation. The fundamental principle of indirect rule is "rule through and by the chiefs." British officials are expected to remain quietly in the background while responsibility for government is placed squarely on the chiefs. Miss Perham, therefore, centers attention upon the operation of the native courts, the native treasuries, and the system of taxation. Since indirect rule aims to conserve native culture, attention is given to a description of native society. While the author is strongly of the opinion that indirect rule is the best system yet devised for the control of backward peoples, she is, at the same time, keenly aware of the fact that it is no panacea for the many evils of contemporary imperialism. It is unfortunate that more attention is not given to the land problem, especially to the efforts of the late Lord Leverhulme to introduce the plantation system into Nigeria. The bibliography is incomplete; it is not annotated; and the index is inadequate.—ARTHUR N. COOK, Temple University.

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Marjorie Ruth Dilley's *British Policy in Kenya Colony* (New York, Thomas Nelson and Sons, 1937; viii, 296 pp. $3.00) is an interesting study of imperial government in an east African colony where fertile agricultural highlands have attracted numerous European settlers and where the railroad building and petty trading have come to be done largely by Asiatic immigrants. The colony contains about 3,000,000 blacks, 40,000 Asiatic Indians, 17,000 Europeans (92.3 per cent British), and 12,000 Arabs. The problems of Kenya, therefore, are conditioned by the presence of representatives of three continents and by the need to reconcile the ideal of trusteeship with imperial self-interest and with the wishes of the influential European minority. The British settlers form the small landowning aristocracy, supported by the government in a position of superiority and naturally in close contact with the British administrators. The advance of the natives, however, has been comparatively rapid because of contact with the whites, official educational activities, and missionary enterprise. For obvious reasons the whites protested the recommendations of the Hilton Young Commission in 1929 to make native advancement the first charge on the government's attention. Gradually the "paramountcy" of white interests has been replaced by a "dual policy" involving complementary interests of whites and blacks. The British settlers have agreed to this, apparently, only in order to forestall a "paramountcy" of native interests, with the result that the position of the Asiatics, especially the Indians, remains doubtful. The white settlers would interpret "dual" to refer to themselves and to the natives; the Asiatics request an interpretation to mean native and non-native. The British government itself has not yet specifically defined its understanding of "dual policy" and Professor Dilley obviously believes it would be best to adopt the broader interpretation. The volume contains much interesting material not readily available elsewhere and is thoroughly documented. —WALTER CONSUELO LANGSAM, Union College.

Dr. M. Margaret Ball's *Post-War German-Austrian Relations: The* Anschluss *Movement, 1918-1936* (Stanford University, Stanford University Press; London, Oxford University Press, 1937; ix, 304 pp. $4.00) remedies a long-standing deficiency in the voluminous literature of the post-war period. It is the first full-length, English, documented study of the movement for union between Germany and Austria since the end of the World War. The story is told in chronological order and about one third of the text is devoted to the proposed Austro-German customs accord of March 1931.

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Especially interesting are the last three chapters which deal with the course of events after Adolph Hitler became head of the government in Germany, at which time "the entire face" of the *Anschluss* problem "changed radically." Much of the account in these last chapters is based, of necessity, upon newspaper and periodical articles and therefore lacks the authoritativeness of the earlier portion of the study; but it deserves to be regarded as the best extended English summary at present available. One of the great difficulties attending the writing of such recent history is well illustrated at the end of this study. The volume closes with a description of the Austro-German agreement of July 1936 whose chief significance, in the author's opinion, was "that again the *Anschluss* has been shelved, this time for their own ends, by the Austrian and German governments themselves."—WALTER CONSUELO LANGSAM, Union College.

The United States Government and Latin American Independence, 1810-1830 (London, P. S. King & Son, Ltd., 1937; vii, 275 pp. 12s.) by Dr. James Johnston Auchmuty of Trinity College, Dublin, is the first extensive treatment of this subject by a European. Unfortunately, the author's freedom from bias for or against the United States does not compensate for defects in thoroughness and accuracy. The volume is based almost entirely on Dr. Manning's edition of the American diplomatic correspondence. To say nothing of manuscript material, many important printed sources and the greater part of the available monographic literature, especially that based on research in Hispanic American archives, have been disregarded. An introductory survey of colonial conditions is marred by unjustifiable generalizations: "The Spaniard's one virtue was bravery, other redeeming traits he had none" (p. 10); Elizabethan England "as a country . . . was far in advance of others as regards colonization" (p. 15). The succeeding chapters describe the independence movement in Colombia, La Plata, Peru and Chile, Brazil and Mexico, respectively, and relate the official contacts of these regions with the United States. Omissions and inaccuracies partly defeat the former aim. Nothing is said about New Granada prior to its union with Venezuela; Mexico before 1821 is dismissed in one page; Miranda is stated to have died in a Colombian prison (p. 66); and Iturbide is referred to as an extreme revolutionary (p. 101). These pages do, however, give an interesting survey of the adventures and problems of American agents in South America. Contacts in the United States are more scantily covered. The chapter division by regions leads to repetition and some confusion in the treatment of

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subjects that were not local, such as: American recognition policy, European attempts at mediation, monarchical schemes, the Monroe Doctrine and its repercussions, the Cuban question, and the Panama Congress. Joel Poinsett is credited with an apochryphal mission to Chile in 1818 (p. 124). An American agent, Joseph Devereux, is confused with an Irish volunteer officer of similar name who served with Bolivar (p. 81). A chapter on American relations with Europe is incomplete and sketchy, apparently due to over-condensation of a complex subject and inadequacy of the sources used. The final chapter rightly emphasizes the self-interested nature of American policy and the failure of American diplomacy to secure predominant influence or close friendship with the new states despite early recognition and the Monroe Doctrine. It would be unfair to draw attention to minor errors of fact were it not for their excessive number. Taken in the aggregate they destroy the value of a readable book.—CHARLES C. GRIFFIN, Vassar College.

In *The Abolition of Poverty* (New York, The Macmillan Co., 1937; x, 300 pp. $2.50), James Ford and Katherine Morrow Ford have produced a careful and comprehensive analysis of one of the most fundamental of present-day problems. One hesitates whether to classify the result as extremely progressive conservatism or exceedingly conservative liberalism. Between the dangers of fascism on one side and communism on the other, the authors seek to chart a course leading to socialized American democracy within the framework of capitalism. This they believe possible if private business enterprise accepts far-reaching changes in the interest of workers and consumers. The problem is divided into three parts: (1) increasing the volume of distributable wealth; (2) making the laborer more productive; and (3) seeing that he receives his proper share. The first involves national planning, conservation of resources, elimination of waste, and a considerable increase in governmental functions. Industry would continue to be carried on by private enterprise, unless it proved blindly obstructive. Evolutionary state socialism is the alternative. If the socialization of capital is accomplished gradually, beginning with those natural resources which are in danger of exhaustion, and extending to those industries which are most exploitative in character, private industry may save the remainder of its domain by self-imposed reforms. Behind the second and third objectives are massed eugenic, health, educational, housing and relief measures. The perfecting of our present social security machinery is seen as essential, with increased benefits, wider coverage, and the

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addition of health insurance. Wage and hour legislation and the protection of collective bargaining are accepted. Consumers' co-operatives are briefly considered as a tested technique for promoting economic democracy. It is noted that under existing international conditions, no internal economy is safe from destruction by war. The authors have no illusion as to the ease, certainty or quickness of their solution. They repeat that the program cannot be carried out in a year or even in a generation. Yet they end on an optimistic note: "Poverty can be abolished—and by measures that are legal, businesslike and consonant with the methods and traditions of our pioneering democracy. Resources are adequate. . . . A developing national economic plan, backed by public opinion and the public will, is feasible and wise. The creation of effective opportunity for the welfare and development of each individual is the concern of all."—EDITH ELMER WOOD, Cape May Court House, N. J.

An intelligent discussion of unemployment policy designed for popular consumption is surely to be welcomed. When such a volume also attempts to relate modern economic theory to the discussion of suggested solutions of the unemployment problem, it merits special attention. *Unemployment Policy: With Special Reference to Australia* (Sydney, Angus & Robertson Limited, 1936; xi, 258 pp. 5/-.) by E. Ronald Walker, of the University of Sydney, meets both these designations. The author does not succeed completely, either in making his discussion popular or in integrating theoretical concepts into the discussion of proposed remedies for unemployment. His lack of success, aside from the inherent difficulty of the task, results from the wide range of proposals dealt with and the effort to canvass the experiences of a number of countries with respect to each proposal. The result is a rather superficial examination of some of the topics. Nevertheless the approach used by the author makes for a very stimulating discussion. He reviews proposals for a shorter work-week, for public works, land settlement, coöperation, unemployment insurance, and several other solutions for the unemployment problem. Needless to say, he finds no panacea in any of them. His discussion of tariff policy should be especially interesting to those steeped in the free-trade tradition. While the volume is deliberately written with reference to Australia, the emphasis is a relatively minor one and it may be read with profit in connection with our own unemployment problem.—HARRY WEISS, Washington, D. C.

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